MEASURES TO PROTECT THE INTEGRITY OF THE SOCIAL SECURITY DISABILITY INSURANCE PROGRAM BY INSURING THAT PEOPLE WHO ARE NO LONGER DISABLED ARE TERMINATED FROM THE DISABILITY BENEFIT ROLLS

4. W 36: 103-69

asures to Protect the Integrity o... RING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

MARCH 10, 1994

Serial 103–69

Printed for the use of the Committee on Ways and Means

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MEASURES TO PROTECT THE INTEGRITY OF THE SOCIAL SECURITY DISABILITY INSURANCE PROGRAM BY INSURING THAT PEOPLE WHO ARE NO LONGER DISABLED ARE TERMINATED FROM THE DISABILITY BENEFIT ROLLS

THURSDAY, MARCH 10, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room B–318, Rayburn House Office Building, Hon. Andy Jacobs, Jr. (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
WEDNESDAY, MARCH 2, 1994

PRESS RELEASE #11
SUBCOMMITTEE ON SOCIAL SECURITY
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE ANDY JACOBS, JR. (D., IND.), CHAIRMAN, SUBCOMMITTEE ON SOCIAL SECURITY, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A HEARING ON MEASURES TO PROTECT THE INTEGRITY OF THE SOCIAL SECURITY DISABILITY INSURANCE PROGRAM BY INSURING THAT PEOPLE WHO ARE NO LONGER DISABLED ARE TERMINATED FROM THE DISABILITY BENEFIT ROLLS

The Honorable Andy Jacobs, Jr. (D., Ind.), Chairman, Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a hearing on measures to protect the integrity of the Social Security Disability Insurance (SSDI) program by insuring that people who are no longer disabled are terminated from the disability rolls. The hearing will take place on Thursday, March 10, 1994, in room B-318 of the Rayburn House Office Building, beginning at 10:00 a.m.

BACKGROUND:

Section 221(i) of the Social Security Act requires the Secretary of Health and Humans Services (HHS) to conduct periodic continuing disability reviews (CDRs) of disabled beneficiaries. These reviews are aimed at protecting the DI Trust Fund by identifying ineligible individuals and promptly terminating their benefits. For those beneficiaries whose impairments are not permanent, CDRs must generally be performed every three years. Beneficiaries with permanent disabilities receive CDRs at such times as the Secretary determines appropriate.

CDRs are funded as part of the Social Security Administration's (SSA's) administrative budget, which is subject to annual appropriations. Due to limited administrative funding and a sharp increase in DI benefit applications, SSA has fallen behind in performing mandated reviews in recent years. Approximately 1.2 million CDRs are now overdue. Last year, the General Accounting Office (GAO) reported that SSA's failure to perform mandated CDRs from 1990 through 1993 will result in a net loss to the DI Trust Fund of $1.4 billion by 1997.

Responding to the chronic shortage of funding for CDRs, SSA has initiated a project which reduces the cost of reviews by relying on self-reported information from beneficiaries. During 1993, the agency asked 92,000 beneficiaries to complete and return by mail a "Disability Update Report." Based on this report, SSA is identifying those beneficiaries whom it considers most likely to have recovered; and it is performing full medical CDRs on them. In those cases where SSA decides that a full CDR is not necessary, it treats the beneficiary's self-report as satisfying the requirement for a review set out in section 221(i).

SSA plans to rely increasingly on self-reported data in future years. As part of H.R. 3400, the Government Reform and Savings Act of 1993, the Clinton Administration proposed to set a specified, minimum level of SSA administrative funding for CDRs over the next five years. The earmarked amounts would be $46 million beginning in fiscal year 1994 and would rise to $52.5 million for fiscal year 1999. These funds would be used for

(MORE)

annual CDR mailer projects similar to that undertaken in 1993. H.R. 3400 was approved by the House of Representatives last November and is now awaiting action by the Senate.

FOCUS OF THE HEARING:

The Subcommittee is concerned that the chronic shortage of funds for CDRs is wasting scarce DI Trust Fund resources and eroding public confidence in the disability program. The hearing will focus on two measures to address this problem: first, H.R. 3935, which would permit SSA to use a portion of the benefit savings it derives from conducting CDRs to perform more reviews; and, second, the CDR mailer project recently initiated by SSA.

H.R. 3935 - Introduced by Chairman Jacobs and Subcommittee Ranking Republican Member Bunning, H.R. 3935 would require that a portion of benefit savings from CDRs be credited to a newly-established CDR Account in the DI Trust Fund, to be used to cover the administrative costs of performing additional reviews. Benefit savings would be estimated annually, based on CDR-related benefit terminations during the prior year. Up to 50 percent of the present value of savings so estimated would be credited to the Account each year. These funds could be used by SSA to cover the costs of mandated CDRs.

Witnesses are invited to comment on the approach taken in H.R. 3935, to suggest modifications, and to propose alternative methods of securing needed funding for CDRs.

The CDR Mailer - The hearing will also assess the effectiveness of self-reported data from the CDR mailer as a tool for identifying ineligible DI beneficiaries. The Subcommittee is interested in:

* determining how SSA verifies the accuracy of its decisions that some beneficiaries continue to be eligible based upon self-reported data;

* assessing the risk that, as beneficiaries come to understand SSA's heavy reliance on self-reported data, more individuals will attempt to "game the system" and the accuracy of mailer responses will decline; and

* learning how SSA's plans for expanded use of the mailer will affect the backlog of overdue CDRs.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Harriett Lawler, Diane Kirkland or Karen Ponzurick [(202) 225-1721] no later than the close of business, Tuesday, March 8, 1994. The telephone request should be followed by a formal written request to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Social Security will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the staff [(202) 225-9263].

In view of the limited time available to hear witnesses, the Subcommittees may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an

(MORE)

oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. THE FIVE MINUTE RULE WILL BE STRICTLY ENFORCED. Chairman Jacobs advises witnesses that they will be allowed no more than two "finally's" and one "in conclusion." Chairman Jacobs further advises witnesses that the shortest testimony presented to the Subcommittee will receive a silver dollar and the runner-up a Kennedy half-dollar. The Congressional Budget Office and similar U.S. Government agencies may be granted an exception to these restrictions. The full written statement of each witness will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statements to the Subcommittee on Social Security office, room B-316 Rayburn House Office Building, by noon, March 9, 1994. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement by the close of business, Thursday, March 24, 1994, to Janice Mays, Chief Counsel and Staff Director, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Social Security office, room B-316 Rayburn House Office Building, before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

*****

Chairman JACOBS. The Social Security subcommittee conducts a hearing today on the arcane and obscure question of whether paying less money in benefits will save money for the government in the case of those who are no longer disabled. Only in government, only in Washington, would there be any question about it, but apparently there is.

I yield to Mr. Bunning.

Mr. BUNNING. Thank you, Mr. Chairman, for convening this hearing today and giving me an opportunity to cosponsor your bill, H.R. 3935——

Chairman JACOBS. Our bill.

Mr. BUNNING [continuing]. Which would credit the savings from continuing disability reviews [CDRs] performed in 1 year to a CDR account within the Disability Trust Fund so that we can fund additional reviews the following year.

The current backlog in CDRs is a disgrace. It undermines public credibility in the SSDI program and it costs the beleaguered Disability Trust Fund millions of dollars each year. It is waste of the worst kind. I say this because we know right where this waste is. We know how to clean it up. But so far we haven't done it, and that is shameful.

I'm not criticizing Social Security employees for putting initial claims and appeals at a higher priority than the CDRs. It is the natural and compassionate thing to do because many of those who are caught up in the claims backlog are desperate. And of course, those who benefit from the CDR backlog by not having their case reviewed are less likely to come forward.

The President in his budget did allocate funds to the CDR process. But it is only cosmetic because the President's budget failed to provide more money or more staffing for SSA.

It is up to the Congress to do something to clean up the CDR backlogs. And I think that H.R. 3935 represents a good start. I'd also like to recommend H.R. 1864 because I think that would also help.

I want to thank our witnesses for being here and I look forward to their testimony today. Thank you.

Chairman JACOBS. The first one of whom is Larry Thompson from Social Security. Mr. Thompson, as always, you're most welcome to the committee. We appreciate your coming in. Or is that what David Brinkley says? We don't appreciate your coming in. We think it's your duty to do so, but you do so very well.

STATEMENT OF LAWRENCE H. THOMPSON, PRINCIPAL DEPUTY COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

Mr. THOMPSON. Thank you, Mr. Chairman. It's always a pleasure to be here. It's my pleasure to be here today to update you on our efforts to protect the integrity of the programs we administer, and specifically to talk about CDRs. I would like to submit my full written testimony for the record and summarize some of SSA's initiatives.

At SSA we must take seriously our responsibility to assure the American people that their Social Security dollars are being handled properly. CDRs are one important tool we use to maintain the integrity of disability rolls. As you know, several years ago SSA

sharply reduced the number of CDRs it performed so that it could devote more resources to processing the growing number of initial claims. Since that time, we have searched for ways to improve program integrity without sacrificing acceptable service to initial claimants.

As you know, we've developed a CDR mailer process. We believe that that process is an important step in achieving the objective. I want to outline it for you briefly and then discuss some of the things we have in mind for trying to improve it.

In 1992 we conducted a study to find how to improve the effectiveness of the CDR process and how to, therefore, conduct more CDRs with the resources available. We sent a questionnaire to about 6,000 beneficiaries who are a cross-section of the Social Security disability insurance rolls to get key information about their medical conditions and their attempts to work, if any. With that information, combined with information we had in the files about the length of time on the rolls and the number of previous CDRs, impairment, and so forth, we constructed profiles.

We found that by using the new approach we could determine whether there was a good likelihood that the beneficiary's medical condition has improved without conducting the traditional lengthy medical review on every one of the beneficiaries. In fiscal year 1993, we mailed questionnaires to a total of 92,000 people. We expect that the new mailer process will turn out to be twice as cost effective as the old process. It will therefore average about $6 in program savings for every $1 in administrative expense.

Now concerns have been raised about the accuracy of decisions that are based on such self-reported information, so let me just say a few words about that. We actually have found in the past that self-reported data provided in other circumstances to Social Security, such as annual earnings reports and information that we use in redeterminations for the SSI program, generally are fairly accurate, especially when the beneficiaries are aware that we will routinely spot-check and verify these reports.

So therefore, in order to maintain the integrity of the CDR mailer process we have also included a feature of spot-checking and verifying the reports that we get from the beneficiaries. For example, as part of our 1993 CDR mailer undertaking, we sent 3,000 cases to the DDSs for a comprehensive medical review even though the beneficiary's responses to the questions indicated that no such review would have been necessary. We're also planning to periodically revise the questions on the mailer, to continue to have this sort of a verification sample, and to undertake additional steps to make sure that the information that we're getting and the information we're basing our decisions on remains accurate.

Now as we look into the future of this CDR mailer process we are looking to extend it in the following ways. First, to have a more automated process for processing the mailers so that we can do those more cost effectively ourselves. Second, to develop mailers which are more tailored to the individual impairments of the beneficiary. The first round was one mailer that went to everybody. We're looking into ways to change the questions so that they are more appropriate to the individual—to each impairment.

We are coming up with more sophisticated profiling techniques. We are looking at the use of additional data, such as Medicare utilization data, as a way of better profiling to decide who should receive full medical review. And we are looking into ways to contact treating sources to help us screen cases without having to actually go into the official medical workup.

We think that the CDR mailer will significantly improve the efficiency of the CDR process. But it's very new and we're still analyzing the data. Once we determine that we've got a good method for processing CDRs in the SSDI program we also plan to use a similar mailer process in the SSI program to begin doing CDRs there.

CDRs, along with other expenses incurred in administering the Social Security programs, are funded from the SSA Limitation on Administrative Expenses [LAE] account. The demands of conducting CDRs must be balanced against the demands of processing new claims for disability benefits. For example, we estimate that doubling the current number of CDRs will add roughly 10 days to the current average processing time for new claims.

The LAE account is part of the unified Federal budget and is subject to a broad range of rules and constraints including, most especially, caps on discretionary spending under the Budget Enforcement Act.

In working with the National Performance Review, we explored several alternatives to make SSA more efficient and effective and to free up resources for looking at CDRs, and some of those are still under consideration. We are looking into streamlining and reengineering the disability program, as we have mentioned here before, to make decisions more quickly and to improve service to the public. We believe that as a byproduct of streamlining and reengineering, efficiencies will be created that would allow us to improve administration of the program even within the available resources, and that will help us to do more CDRs.

Also, assuring that resources were dedicated for CDRs was an important component of the administration's proposal resulting from the NPR. That proposal was to set aside funds within the LAE account to do more CDRs. That was in H.R. 3400 which passed the House but is pending in the Senate.

With respect to your bill, Mr. Chairman, although we have not had an opportunity to fully analyze it, we certainly share your goal of providing a means to enhance our program stewardship. I'd like to work with you to achieve the objectives of your bill and the National Performance Review without posing an unacceptable risk to budget discipline.

We continue to seek the balance between processing initial disability claims and conducting CDRs, and we appreciate your concern and welcome your counsel. We think that our extensive efforts to redesign the CDR process are yielding positive results and represent a major step forward in ensuring that people who are no longer disabled will not remain on the disability rolls. As we proceed with our reengineering plans, we will also continue our search for innovative ways to conduct and fund critical program integrity efforts such as CDRs.

Thank you, Mr. Chairman.

[The prepared statement follows:]

TESTIMONY OF LAWRENCE H. THOMPSON
PRINCIPAL DEPUTY COMMISSIONER
SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me here today to discuss strategies to assure effective and efficient continuing disability reviews (CDRs). CDRs protect the integrity of the Social Security Disability Insurance (SSDI) program by ensuring that people who are no longer disabled are removed from the disability rolls. We are eager to work with your Subcommittee to explore ways to improve the CDR process.

As you well know, there has been rapid and substantial growth in the number of individuals applying for disability benefits. Applications have increased by more than 40 percent over the last 4 years, requiring the Social Security Administration (SSA) to make difficult decisions about the prudent use of limited administrative resources. Accordingly, the agency has in recent years chosen to give highest priority to initial claims, including those in the appeal process, in order to ensure that eligible applicants with disabilities receive their disability benefits as quickly as possible. Often, these benefits are the only means of support for themselves and their families.

Because SSA decided to target its resources on initial claims processing, CDR backlogs have continued to grow. At the present time, over one million CDRs require review. In addition, about 400,000 additional disability cases come due for CDRs each year.

Despite its decision to focus on initial claims, SSA recognized that it ultimately needed to strike a better balance between addressing the growing workloads in initial disability claims and ensuring the integrity of the Social Security rolls by conducting CDRs. SSA knew that the increasing pressure of other major workloads would not allow continued use of the traditional lengthy, labor-intensive CDR process. This prompted SSA to develop a more efficient CDR process, which is continuously being examined in order to improve it even further. In addition, SSA worked with the National Performance Review to explore alternatives for assuring that adequate resources are available for CDRs.

Before I discuss this new CDR process and the specific legislative changes you asked us to address today, Mr. Chairman, I would like to lay the foundation for my discussion by providing a brief overview of the traditional CDR process.

Traditional CDR Process

The Social Security Act generally requires SSA to review the continuing eligibility of individuals with non-permanent disabilities at least once every 3 years and the continuing eligibility of individuals with permanent disabilities at times that the Secretary determines appropriate to see if they continue to be disabled. SSA schedules cases for review based on the beneficiary's impairment and age at the time of the last medical determination. Based on these factors, beneficiaries with disabilities are placed into one of three medical review categories which determine when the reviews should take place:

- Medical improvement is expected. Under this category, the first review is scheduled for 6 - 18 months after the date of the disability determination;

- Medical improvement is possible but cannot be predicted. Under this category, the first review is set for 3 years; and

- Medical improvement is not expected. Under this category, the first review is set for 5 - 7 years. (This category includes such impairments as complete loss of leg, severe mental retardation, and paraplegia.)

Congress established the continuing eligibility review requirement in the Social Security Act to ensure that individuals remain on the disability rolls only if they continue to be disabled according to the statutory definition.

Prior to May 1993, SSA conducted comprehensive medical reviews of all individuals with disabilities whose cases were selected for review based on these criteria. This medical review involved a series of steps:

- An in-depth field office interview with the beneficiary,
- A State disability determination services contact with the beneficiary's treating sources to update SSA records,
- A full evaluation of the medical evidence of record, and
- A consultative medical examination, if any additional medical information was needed to assess the likelihood of medical improvement of the beneficiary's condition.

Traditionally, in order to determine the beneficiary's continuing eligibility he or she was required to undergo a comprehensive medical review process which was lengthy and sometimes cumbersome, particularly for beneficiaries who are extremely disabled, as well as labor intensive for SSA. This process often created anxiety among beneficiaries, most of whom clearly remained eligible for benefits even after comprehensive medical review.

The average cost for all stages of this type of review, including administrative appeals, was about $1,000. Yet, fewer than 6 percent of all such reviews resulted in cessations after all appeals were exhausted. But even the traditional comprehensive CDR process was cost effective, reducing Social Security program costs on average by about $3 for each administrative $1 spent to conduct them (calculated on a lifetime present-value basis).

New CDR Mailer Process

As I mentioned earlier, some years ago SSA began to examine ways to improve our management of the CDR workload. In 1992, the agency conducted a study to find ways to:

- Improve the effectiveness and efficiency of the current process,
- Simplify the process for the beneficiary to an extent consistent with providing a high-quality review, and
- Conduct additional CDRs with the resources available.

The study involved a questionnaire which was provided to about 6,000 beneficiaries who represented a cross section of the SSDI rolls. The questionnaire elicited key information about the beneficiary's medical condition and his or her attempts, if any, to return to work. Under the test, SSA reviewed the beneficiary's response and other information in its records to predict the likelihood of medical recovery. Such information included:

- Length of time the beneficiary has been on the benefit rolls,
- Date of the beneficiary's last CDR,
- Number of previous CDRs, and

- Earnings the beneficiary may have had from work in the last 3 years.

All study cases were then sent for a comprehensive medical review. We compared the results of the medical review with the results predicted and determined that beneficiaries answered the questions honestly. We found that by using this new approach we can determine whether there is a good likelihood that the beneficiary's medical condition has improved, without conducting the lengthy, labor-intensive medical review I spoke of earlier.

In fiscal year (FY) 1993, we mailed questionnaires to a total of 92,000 beneficiaries with disabilities and plan to send a similar number this year. We expect this new CDR mailer process to be twice as cost effective as the old process, realizing an average of $6 in program cost savings for each $1 invested in administrative expenses (calculated on a lifetime present-value basis) for CDR mailers and the resulting medical review process. By using the CDR mailer process and some other initiatives we plan for processing CDRs, we expect to be able to begin to work off the CDR backlogs referred to at the outset of my testimony. I will discuss these other initiatives a little later in my testimony.

Concerns have been raised about the accuracy of decisions based on self-reported information. Also, there are concerns that as beneficiaries come to understand SSA's heavy reliance on self-reported data, more individuals may attempt to "game the system" and the accuracy of mailer responses may decline. We take these concerns very seriously, and we plan an ongoing verification of the accuracy of our CDR mailer decisions similar to verifications involving other self-reported data.

We have found that self-reported data provided for other reasons, such as annual earnings reports and Supplemental Security Income (SSI) redeterminations, generally remain fairly accurate because beneficiaries are aware that we routinely verify earnings reports and periodically check the accuracy of selected redetermination responses. We recognize the importance of preserving the integrity of the program by ensuring that the CDR process continues to produce accurate information. We consider verification steps to be an essential part of the CDR mailer process.

For example, as part of our FY 1993 CDR mailer undertaking, we sent over 3,000 cases to the Disability Determination Services for comprehensive medical review, even though the beneficiary's response to questions on the mailer indicated that a comprehensive review was not indicated. Although complete results have not yet been compiled, we have some preliminary results and have taken some actions based on them. For example, we are planning to periodically revise the questions on the mailer, which we believe will further help to prevent potentially fraudulent activity.

Other Initiatives

Along with the new CDR mailer process, we are also pursuing other initiatives that we expect will further improve the efficiency and effectiveness of the CDR process. These initiatives include:

- Developing an automated process for the review and analysis of the mailers;

- Developing mailers that specifically relate to the beneficiary's impairments;

- Evaluating the use of additional information to determine the likelihood of medical improvement, such as Medicare utilization data; and

- Initiating direct contacts with beneficiaries and treating sources to further screen cases before requiring a comprehensive medical CDR.

We believe that the new CDR mailer will significantly improve the efficiency of the CDR process. Because the process is very new, however, we are still analyzing the data. Of course as information becomes available, we will share it with you. As with any major change though, we want to proceed carefully to avoid unintended adverse impact on beneficiaries, maintain high-quality reviews, and ensure that resources are used in the most effective manner. Once we determine the optimal method for processing CDRs in the SSDI program, we plan to use a similar mailer process in the SSI program.

Mr. Chairman, the CDR mailer is just one means we have to protect the integrity of the Social Security program. Another example is the quality review that decisions undergo before benefit payment is made. These pre-payment quality reviews have been very successful. In FY 1993, we conducted 281,000 pre-payment reviews of initial disability claims to ensure that only those who fully meet the definition of disability come onto the disability rolls. These reviews resulted in savings to the trust funds of $188 million over the lifetimes of these claims.

Alternatives for Funding CDR Processing

CDRs, along with other expenses incurred in administering the Social Security programs, are funded from the SSA Limitation on Administrative Expenses (LAE) account. The demands of conducting CDRs must be balanced against the demands of processing new claims for disability benefits. The LAE account is part of the unified Federal budget and is subject to a broad range of rules and constraints, including caps on discretionary spending under the Budget Enforcement Act (BEA).

The BEA draws distinctions between discretionary and entitlement spending. The discretionary spending cap places spending restraints on all discretionary agency activities, including the SSA LAE. Program integrity activities are funded from the discretionary side of the budget to reduce fraud, waste and abuse in our entitlement program dollars. Funding of these activities, to be sure, can result in substantial savings in entitlement outlays. CDRs are one example of the balance we need to maintain between investing in program integrity activities, on the one hand, and essential core activities, such as processing claims on the other hand.

In working with the National Performance Review, we explored alternatives to make SSA more efficient and effective. These included streamlining and re-engineering the disability program processes to make decisions more quickly and thereby improve service to the public. We believe that as a by product of streamlining and re-engineering, efficiencies will be created that will allow SSA to improve administration of the program within available resources. Assuring that resources were dedicated for CDRs was an important component of the National Performance Review effort, and resulted in the Administration's proposal to set aside funds to be used solely for processing CDRs in FYs 1994-99. The amounts dedicated for CDR processing in our National Performance Review Legislation passed by the House in H.R. 3400 begin at $46 million in FY 1994 and gradually increase to $52.2 million for FY 1999.

With respect to your bill, H.R. 3935, Mr. Chairman, although we have not yet had an opportunity to fully analyze it, we

certainly share your goal of providing a means to enhance our program stewardship. We want to work with you to achieve the objectives of both your bill and the National Performance Review without posing an unacceptable risk to budget discipline.

Conclusion

Mr. Chairman, as we continue to seek the balance between processing initial disability insurance claims and conducting CDRs, we appreciate your concern and welcome your counsel. We think that our extensive efforts to redesign the CDR process are yielding positive results, and represent a major step forward in ensuring that people who are no longer disabled will not remain on the disability rolls. As we proceed with our re-engineering plans, we will also continue our search for innovative ways to conduct and fund critical program integrity activities such as CDRS. We look forward to working with you in this effort.

Chairman JACOBS. Thank you, Mr. Thompson.

Mr. Bunning.

Mr. BUNNING. Thank you, Mr. Chairman.

Mr. Thompson, I have real serious reservations about the use of CDR mailers. Why would a beneficiary report medical improvements to SSA if such a report jeopardized their benefits?

Mr. THOMPSON. The experience is that by and large they do. And we are checking on that, as I said. We take a series of beneficiaries who reported no improvement, or in fact reported that their condition had deteriorated and we do CDRs on them anyway to find out whether the results coming in actually are helping us target our resources. We're part way through that process. I don't have final results. The preliminary results indicate that they're giving us information which does help us target the process. Now that doesn't mean it's perfect, but it helps us to target the scarce resources where the probability of improvement is the highest.

Mr. BUNNING. Can I ask the basic question, how much money was spent on 92,000 mailers?

Mr. THOMPSON. You want information about just sending the mailers out?

Mr. BUNNING. I want the cost of producing the mailer and sending it.

Mr. THOMPSON. We estimate that processing the mailer costs about $25 per mailer.

Mr. BUNNING. Each mailer.

Mr. THOMPSON. Yes.

Mr. BUNNING. I don't have my calculator here, so you do the math for me; $25 times 92,000?

Mr. THOMPSON. $2.5 million. I multiplied times 100,000.

Mr. BUNNING. I'm not going to tell you how to run your shop. But, wouldn't it be better if we spent that kind of money on staffing up so that we could actually use that money for the purpose of really determining eligibility? In other words, we know what the problem is. We know why we have a backlog. We know those things. It's a staffing problem. It's a dollar and cents staffing problem.

Mr. THOMPSON. Let me agree with you, but only partially. What the mailers will allow us to do is double the rate at which we find people who are not disabled and cease them from the rolls. We can get, under our traditional process——

Mr. BUNNING. You're telling me it's more cost efficient to do a mailer than to staff up; is that what you're telling me?

Mr. THOMPSON. I'm telling you, if I could, under the traditional process it costs about $1,000 to do a CDR. Under this process, we cease maybe 3 to 4 percent of the people we review. With the mailers we've been able to increase the rate at which we cease people to 7 percent by screening first. Then we have fewer people we run through the $1,000-per-case cost of doing the whole medical workup. So that for a given pot of resources, we can do a better job of policing the rolls with the mailers.

Now we don't have——

Mr. BUNNING. Wait a minute. Then you would disagree with the end result of Congressman Jacobs and my bill, to put more dollars into the review process.

Mr. THOMPSON. No, no. I said, for a given amount of dollars we can use those dollars more efficiently with the mailer.

Mr. BUNNING. Then you would use it on an additional mailer?

Mr. THOMPSON. But we are still not issuing as many mailers as we ought to be issuing. We are not doing as many CDRs as we ought to be doing. All I'm saying is that we think the mailer has allowed us to make better use of our resources. But that does not say that we're putting in as many resources as the Congress envisioned when it wrote the 1980 amendments.

Mr. BUNNING. Tell us about the pilot. Did the questions you use change as a result?

Mr. THOMPSON. Of the pilot?

Mr. BUNNING. Yes.

Mr. THOMPSON. I don't think we changed the questions for the first round. I think we're going to change some of them for next year's mailing.

Mr. BUNNING. What steps are you taking to validate the results?

Mr. THOMPSON. As I said, we sent out 3,000 cases to the DDSs in which according to our rule of thumb we wouldn't have sent, based on the results of the mailers. So what we do is take a block of cases which the mailer suggests don't need further work and then we send those for review.

Mr. BUNNING. We have to go through the process then again. They have to go through that same process. You have to spend the money——

Mr. THOMPSON. On a subsample.

Mr. BUNNING. Even though the mailers you say are being efficient.

Mr. THOMPSON. A subsample goes through the whole process as a way of ensuring the integrity of the larger group.

Mr. BUNNING. What's been the rate of termination?

Mr. THOMPSON. We think we're going to end up at about 7 percent. That's an estimate because we're still processing some of these through the DDSs. And when people get terminated at the first level they tend to appeal and that takes a little while to work its way through.

Mr. BUNNING. And you're telling me that the mailers are a prime cause of you having the ability to terminate?

Mr. THOMPSON. Yes, I want to——

Mr. BUNNING. Really, I have no confidence in a mailer being sent to somebody that says, if you give us this information we're going to terminate your benefits.

Mr. THOMPSON. Well, we spot check it. But let me make it clear that the mailer, we believe, has allowed us to use a block of resources to get more cessations. Now there's a different question which is whether that block of resources is as big as it ought to be to really protect the integrity of the program, and I'm telling you that given the competition for things we have to do with our resources, we haven't got as much in there as we'd like.

So your question about whether the bill that you and the chairman have introduced, if enacted, would have a positive effect on the program, the answer is yes, it would allow us to do more CDRs, whether we did them with mailers or not. We probably would use

some mailers and some not, because we think we can use our resources more efficiently.

Mr. BUNNING. Last question. Do you have an opinion on the bill that has passed the Senate on SSA's independence?

Mr. THOMPSON. We think that this is probably not a good time for us to become an independent agency——

Mr. BUNNING. Unbelievable.

Mr. THOMPSON [continuing]. Because of the workload pressure that we're under and that this would be rather disruptive to the organization at this time.

Mr. BUNNING. Thank you.

Chairman JACOBS. We just want to unshackle you so you can devote more time to that workload.

Congressperson Pickle.

Mr. PICKLE. Mr. Chairman, I thank you. I have a series of questions to ask Dr. Thompson. But with respect to your last position that you think it is not a good time to become an independent agency, I would say, Dr. Thompson, it's not a good time for you to try to stop what the Congress has been trying to do for 10 years just to try to protect the Department of Health and Human Services' territory. I would view with considerable concern any effort made by HHS to try to thwart the will of the Congress. I hope that you people at SSA don't get involved in that contest.

Now that's just extra, Mr. Chairman.

Chairman JACOBS. No charge.

Mr. PICKLE. I have a series of questions, Mr. Chairman, and it may take a couple of minutes longer than normal, and with the understanding of the other members of the committee I'd like to proceed. If not, I will come back for a second round.

Chairman JACOBS. Would the gentleman care to inform the record as to what normal is? [Laughter.]

Mr. PICKLE. Dr. Thompson, I have a series of questions I want to ask you. I'm not attempting to be personal. I don't want to be the prosecutor or the persecutor, but I am terribly concerned about what is happening at SSA on disability determinations and continuing disability reviews. I think we've done a terrible job over there, and Congress, in part, is at fault, because we haven't called your hand on it earlier. But it is a terrible situation that's grown to a horrendous crisis and we've got to do something about it. So let me ask you a series of questions.

First, as I understand it now, the CDRs are required by law. Is that correct?

Mr. THOMPSON. Yes.

Mr. PICKLE. Section 221(i) of the Social Security Act says it is required. It is a statutory requirement; is that correct?

Mr. THOMPSON. For a subset of the beneficiaries.

Mr. PICKLE. All right, now CDRs are an income-making procedure for the SSA. You've testified for every CDR dollar you spend you would raise $4 extra; is that correct?

Mr. THOMPSON. Three or four dollars on the current process, maybe a little higher with the mailer.

Mr. PICKLE. But that's your testimony and that's generally your position. So it's not a loser, it's a moneymaker if you put a pencil to it.

Mr. THOMPSON. CDRs are a moneymaker for the trust fund.

Mr. PICKLE. Now at the same time isn't it a fact that when SSA should have been conducting somewhere between 400,000 and 500,000 CDRs per year you have actually been conducting less than 50,000 the last 3 years; somewhere in the neighborhood of the 40,000 range; is that correct?

Mr. THOMPSON. [Pause.]

Mr. PICKLE. Dr. Thompson, it is correct.

Mr. THOMPSON. It's about right.

Mr. PICKLE. Instead of 400,000 you've been conducting less than 50,000 for the last 3 years. It's gone up and down, but at this time it's at an all-time low practically.

Now then, I assume that, as a result then of this failure to conduct statutorily required CDRs, isn't it true then that you've got a backlog of 1.1 million cases that need continuing disability review?

Mr. THOMPSON. Yes.

Mr. PICKLE. Then I ask you as a matter of question, why is it that SSA has not complied with the statutory requirement?

Mr. THOMPSON. All I can say is that a decision was made gradually in 1990 and 1991 to shift the resources to processing initial claims.

Mr. PICKLE. I'll come to that point in just 1 minute. Now in the past you, SSA, have protested that you lack resources to conduct the CDRs and that Congress really hadn't given you enough money to actually do that. And you've also argued that there's been a high backlog of initial claims and that they were a more important priority; is that correct?

Mr. THOMPSON. I think that's the position that the agency took, yes.

Mr. PICKLE. Well, you just said it just a minute ago that you're paying attention more to initial claims than you are on the CDRs. You've been more interested, obviously from the facts, in putting people on the rolls than you are having CDR reviews.

Mr. THOMPSON. We're interested——

Mr. PICKLE. Can there be any other interpretation?

Mr. THOMPSON. We're interested in giving as good service as we can to the claimants. We're also worried about the CDRs. I testified to the fact that the CDRs were cut back in 1990 and 1991.

Mr. PICKLE. Dr. Thompson, whether you intend it or not, the fact of the matter is that you've been putting people more and more on the rolls, because I can show you the figures in a minute, how much they've grown, rather than having any reviews. Now that's a fact, whatever you intend and how you explain. And you've got a difficult problem, so I'm not trying to be mean about this, but I'm just pointing it out.

Now last year Congress gave you extra money. You wanted some $200 million, and Mr. Bunning and Mr. Jacobs and I, along with our chairman of our committee, Mr. Rostenkowski, we asked for an additional $300 million and you got that money; $500 million, primarily to try to do something about the terrible situation on the CDRs. Is that correct?

Mr. THOMPSON. I'm not sure it was $500 million. But we got extra money.

Mr. PICKLE. Approximately.

Mr. THOMPSON. Yes.

Mr. PICKLE. Now I asked you within the last 30 days how much dent are you making in the backlog and you said, we're working on it. I could not understand your answer. I never could figure it out, so I asked you to give me a letter. And you have sent me a letter telling me what you've done with that money. Now whether it's $200 million or $500 million, but in that neighborhood, whatever it is.

Now the fact of the matter is, you've gotten that money and you used that money to pay locality pay rather than spend it on CDRs; is that correct?

Mr. THOMPSON. There's a big pot here and it's our budget, and different spigots go off and on. If you want to say in sequence, the sequence of events was that we submitted our budget, the President's budget was submitted. Congress added $200 million to process disability workloads. Subsequent to that the Congress decided to reject the President's proposal to suspend locality pay, but decided not to fund locality pay. The net effect of those two things are independent, but somehow when the smoke clears we have to pay our employees.

So the President's budget in 1994 proposed a reduction in work-years. If the President's budget had been enacted in 1994 as proposed, Social Security would have had about 400 fewer work-years than it had in 1993. The Congress, as you said, added $200 million and that was the equivalent of an additional 2,400 work-years. The locality pay knocks 1,755 work-years off of that when you tell us to absorb it.

Now if we don't pay the people, we have to lay them off. So the fact of the matter is that when you take what the President's budget called for, what the Congress added, the impact of the locality pay, we ended up with about 400 more staff years in 1994 than we had in 1993.

Mr. PICKLE. Dr. Thompson, in posing my question it sounds like I'm trying to point a finger of some censure to you, and in a sense I am. The cold fact of it is, you got this extra amount of money and you used that money not for CDRs—mighty little of it. You used it to pay your salaries, to raise your salaries to meet locality pay. Now that is a statutory requirement in the law.

Mr. THOMPSON. Yes, we didn't have the option.

Mr. PICKLE. But it also statutorily required that you conduct these CDRs. We established that at the very beginning of this question.

Mr. THOMPSON. That is correct.

Mr. PICKLE. So you have a statutory requirement to meet locality pay, you've got a statutory requirement to conduct the CDRs. And you just put your priority on increasing your pay rather than conducting CDRs. Now that's the cold facts, whatever reason prompted you. And I hear that generalization of explanation, but the cold fact of the matter is you just chose to pay your people rather than conduct the CDRs.

Mr. THOMPSON. We chose to put the money into initial claims rather than do the CDRs, and perhaps that was a bad decision.

Mr. PICKLE. You put more priority on conducting initial claims than conducting CDRs. Now you just made that choice. I'd have to

say you're strapped over there. It's a difficult problem. And I have to raise a question, is there any other way that you could make cuts other than just not raising your salary or paying people? That's a problem. But is there no other way you could have made cuts or handled this matter than just using that money to increase pay?

Because if every time we try to give you money and you spend it for some purpose other than is indicated, it seems to me like you're thwarting the will of Congress. The report from the Appropriations Committee last year clearly said that this money is to be used because—this extra money is given because you have such a terrible problem on CDRs. That's what the report said. That's what the Appropriations Committee said at our request.

In spite of that, you had a problem on locality pay, so you just gave yourself a pay raise rather than conduct the CDRs. Now that sounds harsh, and it's intended to be harsh because it's a cold fact and I think we ought to admit it.

So now I look at your budget this year. You say you're going to put out some mailers. In the first place, I think you said 90,000, something like that? But you've got 400,000 CDRs to do. Why do you just say 90,000, when you ought to be conducting 400,000 of those kind of mailers. For however effective they would be, I don't know? I question them. I'm like Mr. Bunning. But it seems to me like you're just giving us an answer right quick to try to get off the hot griddle, and you get us chasing this rabbit over here that you're going to conduct 92,000. I'm encouraged by that and I hope that will be helpful, but I don't know that that's the answer.

So if you conduct your mailers like you're doing now you will not make a dent on the 1.1 million CDR backlog; is that correct?

Mr. THOMPSON. Yes.

Mr. PICKLE. I'm going to ask just one last question. I looked at some records last night and I saw where the number of people on the disability rolls has grown in the very recent years by 20 percent over the last 3 years. Have increased 20 percent now in the last 3 years; is that correct?

Mr. THOMPSON. It's reasonable, yes.

Mr. PICKLE. You ask your staff if you want to, but that is correct, isn't it.

Mr. THOMPSON. Yes.

Mr. PICKLE. Now do you believe then that the number of disabled people in our society has grown by 20 percent?

Mr. THOMPSON. Do I believe the number has grown by 20 percent?

Mr. PICKLE. Yes.

Mr. THOMPSON. No.

Mr. PICKLE. If we've increased disabled people on the rolls by 20 percent, does that mean that automatically 20 percent of all people in the society——

Mr. THOMPSON. No.

Mr. PICKLE. How do you explain that?

Mr. THOMPSON. Actually, that's quite a challenge. There are several things that are going on. One of them is the economy; not only the level of unemployment, but the twisting that's occurred in the type of jobs. The fact that——

Mr. PICKLE. It's on the type of jobs, and also the people getting on the rolls are younger people. They get on the rolls at an earlier age now——

Mr. THOMPSON. There was a change in the listings for mental impairments——

Mr. PICKLE. I want to come back, Mr. Chairman, to a point, or maybe I can continue for 1 more minute?

Chairman JACOBS. Come on back now.

Mr. PICKLE. I looked at a chart the other night—and I don't have it in front of me—but it shows the people who are on the disability rolls now. Here it is. This is the chart that you all submitted to the chair of the committee. This black line here shows the people who are on disability now or who go—these are the people who are going to go off of disability onto the OASI. This white shows the people who have actually died.

Up above you've got—at the very top you see here there's a little sliver of line. You can't see it unless you look awfully close. The little sliver of line which shows the people who have recovered and who have gone off the rolls because they took other employment. I'd say, on 100 percent basis, the people who have recovered somewhere is about 1 percent. If you don't look good, you can't see that sliver of line which shows the people who have gone off the rolls because they took employment.

Now my point is, Mr. Thompson, we've got a system, and we've allowed it, where we have put people on the rolls, now at an earlier age, and they ride it on through until they go to OASI, and they ride it on through until they die. And the only people who we put off is a sliver of about 1 percent of the people. Which simply means that our system is allowing people to get on the rolls for a lifetime of dependency on the government, instead of trying to get them back into society.

The law says if they can perform gainful employment, substantial gainful employment, then they ought to do it. Yet, somehow our system, and this Congress has allowed the program to grow, where we have practically no one ever getting off the rolls. So I want to come back to this later, but it seems to me that what we are allowing, the Congress and you, is to get people on the disability rolls. We don't want to be harsh. We ought to be mindful if they really are disabled. But we ought to try to find some way to review to see, are you able to work?

Now we have found in the past that we could take them off the rolls and they could work. Sometimes we run into a firestorm. But I think we now have drifted into a spirit of complacency where we just put them on the rolls. That's easier. You put them on the rolls; that's your decision. You use money we give you for the backlog for your pay raise. I would think that Congress ought to see that we've to not only endorse the bill that Mr. Jacobs and Mr. Bunning passed. But if that won't work, then I think we ought to take the entire program away from SSA because you're not doing a good job.

Mr. Chairman, I yield back the balance of my time.

Chairman JACOBS. We're pleased to have it.

Mr. Thompson, what is the legal status of a beneficiary who answers your questionnaire untruthfully?

Mr. THOMPSON. I believe that there are sanctions against them because the mailer has an attestation statement that informs people that there's a penalty—they have to give a truthful statement under penalty of law. The penalty is someplace else in the code, but it says that if you make a false statement in order to get or keep benefits from the Federal Government, I believe it's a felony, 5 years in prison and——

Chairman JACOBS. You say it is a felony. In the nature of perjury or——

Mr. THOMPSON. Not in the Social Security Act, but a different part of the code.

Chairman JACOBS. I appreciate that. I just said the legal status. Is that the equivalent of perjury or actually perjury under title 18?

Mr. THOMPSON. False statement. I don't know whether it's perjury, I'm not a lawyer.

Chairman JACOBS. It's obviously in the nature of perjury. I wonder if there's any work to be done in the legislative process to stiffen the consequence of disingenuous answers, or lies.

Mr. THOMPSON. We spoke about a problem in the SSI program to the committee. I would say it's not so much what the penalties are, but can we streamline the process for enforcing those penalties. We felt that——

Chairman JACOBS. Let's come at it a different way. Has anybody ever been penalized for a dishonest response?

Mr. THOMPSON. I don't know the answer to that. Probably not.

Chairman JACOBS. That is an answer we require.

Mr. THOMPSON. That's in the context of the CDR mailers. Now in another context——

Chairman JACOBS. That's exactly what I mean.

Mr. THOMPSON. We've only got the first wave of mailers out. We haven't found anybody making a false statement.

Chairman JACOBS. What you're saying is that you sent out a questionnaire and for some reason or other the same person gets an actual examination and proves to be disabled if he or she said he or she was disabled. So far you have not found a disparity between an examination and an answer to a questionnaire?

Mr. THOMPSON. So far.

Chairman JACOBS. So the inference is that maybe there are some honest people left in the United States of America. That would be very salutary news.

I yield to Mr. Bunning.

Mr. BUNNING. I want to follow up some of the things. The National Association of Disability Examiners will testify that the reviews being sent to the States include those where no medical improvement is expected. Is that mix deliberate or in error?

Mr. THOMPSON. No, that's deliberate.

Mr. BUNNING. That's deliberate. Can you explain?

Mr. THOMPSON. The issue of whether we expect medical improvement or not is an issue of how we profile the cases. Beneficiaries are awarded benefits. We look at their age, their history, their impairment, and we sort them into categories. We have three categories, medical improvement expected, medical improvement possible, no medical improvement expected.

When we set up our regulation we said that the first two categories—where medical improvement was expected or possible—fell under the statute that required a periodic review at least every 3 years. We said we were going to separate them into two categories and the one category where we expected improvement would be even faster than every 3 years, and then the other category would be every 3 years.

We said that the third category were the ones that the Congress said were permanent. But no one's disability should be considered permanent, and in an ideal world we should look at them every 7 or 8 years. That's the no medical improvement expected category. So it is simply another way of profiling and dividing up the beneficiary population.

Mr. BUNNING. Let me follow up on the chairman's question. He said that—just let me get this correct—92,000 questionnaires have been sent and you have received them back. And you tell us that 3,000 of those have been examined?

Mr. THOMPSON. No. We sent out 92,000. We haven't got them all back yet.

Mr. BUNNING. When did you send them, sir?

Mr. THOMPSON. Mostly in May 1993. We started in May and they were sent out in waves. We've gotten back I think 82,000 or so. We're still chasing down a few thousand, and there are some people who haven't returned their mailers. Eventually, their benefits will be terminated if we don't find them and get their mailer back.

Mr. BUNNING. You have cross-checked those 82,000 with your staff that checks, obviously, the questions as they come back and determined that there have been no discrepancies at all?

Mr. THOMPSON. What do you mean? No, no. We've taken the 82,000. We have looked at the answers and then we have basically referred about one-half of them out to the States to do the full medical workup. In other words, the mailer process is basically allowing us to sift half of the cases out and the other half get the full workup.

Mr. BUNNING. Then the statement you made to the chairman would be premature at least.

Mr. THOMPSON. Yes. I said we have a subset of those people who we have sent to the States that, based on the mailer response, we might not have otherwise sent. We wanted to check to see whether people were lying to us, or whether they were making erroneous statements.

Mr. BUNNING. Have you heard back on those that you have sent to the States?

Mr. THOMPSON. Yes. We're getting them as we go through. I think the States have gotten 38,000 of these and have made initial decisions on 29,000. And it looks like the overall cessation rate right now is about 6 percent on those. But they haven't made all the decisions yet, and we're still estimating because the actual initial cessation rate is about double that, and our experience is that at the ALJ level half the cessations are reversed.

Mr. BUNNING. Without the mailer what is the normal process? Give me the timeframe.

Mr. THOMPSON. I'm sorry, the normal——

Mr. BUNNING. Without your mailer and without the information from that. I'm trying to see why you spent $2.5 million on a mailer and I'm trying to justify it for you. Without that mailer what is the normal processing time for reviewing those cases?

Mr. THOMPSON. Once we receive the mailers and select half the cases and send them to the States, the process is exactly the same.

Mr. BUNNING. Without it. Take it away. Say you don't have the mailer. Now we've got all these cases and we have to review them. Normally, what's the processing time to do it without it?

Mr. THOMPSON. Processing time?

Mr. BUNNING. The reviewing time.

Mr. THOMPSON. For doing them—I guess I'm not quite sure——

Chairman JACOBS. Before you had the mailer system how long did it take to do the reviews?

Mr. BUNNING. That's correct.

Mr. THOMPSON. Well, you send a case out. It probably takes the State——

Mr. BUNNING. I want to justify this——

Mr. THOMPSON. It's similar to an initial decision. So it may take the State 100 days on average to make an initial decision.

Mr. BUNNING. And this is helping to speed that 100 days?

Mr. THOMPSON. No.

Mr. BUNNING. I'm trying to get some reason to spend it.

Mr. THOMPSON. The mailer is not helping to speed up the full medical review. It's helping to get a higher cessation rate. We can only afford 45,000 or so full medical workups. We want to find the 45,000 people who have the highest probability of medical improvement. The point of the mailer is to start with 92,000 and then figure out how to narrow that down to where we'll get the most bang for the buck. We can only afford to do 45,000 medical workups. Now once we've picked the 45,000 the process is the same as it's always been.

Mr. BUNNING. Are you telling us there's only 92,000 people that should be getting the mailer?

Mr. THOMPSON. No. No, 1.2 million——

Mr. BUNNING. Then we're not really getting at the problem.

Mr. THOMPSON. We are chipping away at it. But are certainly not solving it.

Mr. BUNNING. When you come to the Congress for the money the next time for chipping away at it and you use it for other purposes, you will find a pretty deaf ear.

Thank you.

Chairman JACOBS. The mailer itself—I'm a little confused by the various answers you've given, Dr. Thompson. The mailer itself, has it already resulted, just the mailer alone, in the dropping of some beneficiaries from the rolls?

Mr. THOMPSON. No, nobody would be ceased based on the mailer result. The mailer is only a screening device.

Chairman JACOBS. If I responded to the mailer with, "Feeling fine," and I got a job making $50,000 a year, and I married a rich woman, couldn't you drop me by the mailer?

Mr. THOMPSON. I think we would have found you in the earnings—there's another class of CDRs that we continue to do which

we call work CDRs and that's when there's evidence you went back to work.

Chairman JACOBS. Let's just say I said, "I'm feeling fine and I played three games of baseball this afternoon." Would you drop me? Can't the mailer eliminate anybody? How about if the person just says, "Don't send me any more money," in grease pencil or something. Why can't the mailer be effective in that way if we do have honest people who are recovered?

Mr. THOMPSON. I'm sure that if——

Chairman JACOBS. Am I missing something here?

Mr. THOMPSON. Most people don't write back and tell us that they're happy that we finally wrote because they've been meaning to tell us that they're not disabled any longer and please stop the checks. I don't think we've gotten a response like that.

Chairman JACOBS. I happen to be a disabled person myself. I have a 10 percent disability from combat in the Marine Corps. I send it back every month. But I sure as heck can't run any more because of that disability. I can walk pretty well. But if somebody sent me a note and said, are you employable? I suppose my opponent this year would be the first one to assert that I'm not, but others might say that I am.

You get nothing like that in a mailer? There's no way to ask the question, do you still have the disability?

Mr. THOMPSON. We do ask questions of whether you have worked any time in the last 2 years? If so, let us know. You know, you can work a little bit.

Chairman JACOBS. That's right. I could be flat on my back, as we all know, and challenged—as Katie Couric said this morning in her program—I could be physically challenged and work. The question is, why not just plain English? Why not just say, we show that you have a disability of a bad leg. Do you still have that disability? How about that for a court case on perjury?

Mr. THOMPSON. What can I say? We have taken a series of questions and done a study and piloted them, and the question you're raising is should we try a different question.

Chairman JACOBS. What is your personal opinion of that simple question? The initial question, "Do you still have the disability for which the taxpayers are giving you benefits"?

Mr. THOMPSON. We get at that through a series of three or four questions.

Chairman JACOBS. You might be surprised. Somebody said, I guess David E. Lillenthal said, our whole society depends on the fundamental integrity of the individual. And the most oft-repeated exchange in world literature probably is the woman saying to the man, "Why didn't you tell me you were married"? and the man replying, "You didn't ask me."

Maybe it would be good just to ask that simple question. I don't pretend to be an administrator or have any expertise about the way to run the program. That's your responsibility. I'm in a separate branch of the government and I understand all that. But would you at least consider that suggestion?

Mr. THOMPSON. Yes, sir.

Chairman JACOBS. Plain English, plain speaking.

Mr. Pickle.

Mr. PICKLE. Mr. Houghton, never had a——

Chairman JACOBS. Mr. Houghton has signaled me that he is willing to let Mr. Thompson journey back to his office.

Mr. BUNNING. Just one last question.

Chairman JACOBS. This is an omitted question.

Mr. BUNNING. It is, because I just got a copy of the questionnaire. Is it true that the questionnaire sent is voluntary, the return is a voluntary return? It says it exactly on the——

Mr. THOMPSON. Where does it say that?

Mr. BUNNING. On the top. It says, information requested on this form is voluntary.

Chairman JACOBS. If the gentleman will yield. I think the same is said of Federal income tax returns.

Mr. BUNNING. If you have a Social Security number it isn't voluntary. You have to return it.

Chairman JACOBS. I think that's the proper court interpretation of voluntary. That they don't come and twist your arm behind you. You have a duty to do it, but it's voluntary compliance.

Mr. BUNNING. It's the fourth line from the top.

Mr. THOMPSON. However, if you do not——

Mr. BUNNING. If it's voluntary——

Mr. THOMPSON. Yes, but we're going to follow up.

Mr. BUNNING. We have a description on what voluntary is and what it isn't.

Chairman JACOBS. I think, Mr. Bunning, that you've heard often that we have the largest voluntary tax return system in the world.

Mr. BUNNING. There is serious dispute on that, Mr. Chairman.

Chairman JACOBS. And that's subject to a lot of Jay Leno and David Letterman work, but I think that is the interpretation. It would be nice if the law spoke plain language. But it never has, I guess it never will. Putting things in plain English is not—Mr. Goldwater and maybe Mr.——

Mr. BUNNING. It's permissive—both can and may.

Chairman JACOBS [continuing]. Are the only ones who ever did. But I would be grateful—I don't know, maybe we ought to break right now and all sit around this table with sharp pencils and make contributions to your questionnaire. But I would be greatly gratified if you might be willing to ask that question first. You can dance all around a subject and have esoteric questions, but sometimes when you just ask the ultimate question you might be surprised at the answer you'll get, particularly with people who still have consciences.

The second thing is, I would appreciate a little more information, if it isn't too much trouble, about your plans for detecting disingenuous responses—lies, speaking of plain English—and pursuing the sanctions and the penalties for doing so.

[The following was subsequently received:]

We compare the self-reported response with information in our records which include medical and vocational evidence as well as work and earnings information. Mailer responses that seem to conflict with our records alert us to the need for further review. Self-reported responses are only one aspect of this new mailer process. We use the CDR mailer responses in combination with a sophisticated profiling system which alone is highly predictive of the likelihood of medical recovery.

As we gain experience with this process, we are continuing to verify the accuracy of decisions based on mailer responses. For example, in fiscal year 1993, SSA re-

leased to the disability determination services for full medical CDRs a sample of 3,000 cases that did not warrant full CDRs based on beneficiaries' responses. In the future, we plan to continue these integrity samples and periodically change the questions on the mailer to include: First, questions concerning medical sources that can verify a beneficiary's response regarding current medical condition; and second, impairment-specific questions that relate to the beneficiary's medicines and treatment.

Finally, the mailer requires a signature under a penalty clause which reminds the beneficiary that there are sanctions for perjury. SSA refers cases of suspected false statements made on the CDR mailer to the Office of the Inspector General, HHS, for investigation.

Chairman JACOBS. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Thompson, I'm struck by the fact that the only way people get off the disability rolls is they either get old or they die. We have less than 1 percent that are actually returned to employment. So there's something seriously wrong with the system we've got. Maybe we have to ask ourselves, are we really helping marginally disabled people, or are we putting people on the rolls where they will assume a lifetime of dependency on government? I think we have to ask ourselves, is that what we're doing?

Now it's a fact that sometime between now and next year you're going to ask money to be shifted from the OASI fund permanently over to the disability fund because your program has run out of control and it's going to go broke within the next year. You're going to have to have some money. There's going to be a reallocation. As I understand it, you've asked to have a permanent amount reallocated.

And I ask myself, do I want to give you a permanent reallocation of funds to a program that you can't administer, you haven't administered, and you haven't enough money to administer? For one, I just have to say to you, I have serious questions whether we're going to give you any kind of permanent allocation unless you just permanently toss a kiss at this problem. Now that remains to be seen.

The fact is that our rolls are growing. In 1985 we had actually awarded some 377,000 cases of disability and in 1993 that has grown to 635,000 per year; more than doubled in the space of less than 10 years. Now that shows us how much it's growing.

And when you look at the figures of people who get on the rolls and who get off, in 1970 you had about 40,000 actually were terminated in some way or another. And you go down the years, the only time you ever really terminated was 1983. That was during President Reagan's time and that's when we had a firestorm, and because of that, the improvement factor was put in there.

But now today practically none of them are being put back to work, or taken off the rolls. In 1990 you had 9,000. In 1991 you didn't have any. In 1992 you had 6,000. Today, I understand you've got over 3 million on SSA disability and you've got over 3 million in SSI. So that's 6 or 7 million people and you had termination of 6,000 last year.

Now the figures are stunning, and they're horrendous, and I think we've got to do something about it. It seems to me like you people are just doing business as usual, because it's a tough problem and you're going to do it by mailers. I hope the mailer can help. I hope it can be of some information. You've tried them in the

past. You do get some information and I think the questioning has been good here this morning.

The fact of the matter is, nothing is going to beat that eye-to-eye conversation. People have got to understand that we put them on disability but it's because at this time they could not engage in any gainful employment. That does not mean that it's for a lifetime.

Let me ask you a question just as a matter of accountability. Once a person gets on the rolls do you ever know—one, you don't take them off. Do you ever know whether that person works in gainful employment?

Mr. THOMPSON. If they work in legal employment we do.

Mr. PICKLE. If they work for a company and they get a W–2——

Mr. THOMPSON. Of course, we know.

Mr. PICKLE. You are notified about that?

Mr. THOMPSON. Sure.

Mr. PICKLE. Number one, I wondered if you ever used the W–2. But let's assume you do.

Mr. THOMPSON. We have about 20,000 people annually whose benefits terminate due to work activity.

Mr. PICKLE. All right. But of all the people on the rolls, how many people—what percentage do you get, 5 percent of the people who submit a W–2 during the year, or is it 10 percent of the people who are on the rolls you get a report of a W–2 or what?

Mr. THOMPSON. It would be less than that.

Mr. PICKLE. One, 2 percent? Mighty few. In other words, let's say that 90, 95 percent of them you never know whether they're working anywhere. Do you believe, sir, that of the 7 million people on the rolls now that only 1 percent of them are engaged in work? Do you think that they just take that $400 or $500 and just ride it on the rest of their life and never work a bit?

Mr. THOMPSON. I suspect that a lot of them pick up an odd nickel here and there.

Mr. PICKLE. You suspect they're working somewhere, but we don't know. And I don't know whether they do or not, and I don't want to say they're not complying with the law. But the fact of the matter is, we just don't know. You don't know. So they get on the rolls and they ride into the sunset when the Maker calls them to their final rest. And that's a poor case.

Now, Mr. Chairman, I'll say that I've had some history about this and I know that it's not an easy matter to handle. I know that in 1983, in that period President Reagan came in and he said a lot of these people on the rolls and we ought to—we had a lot of reviews and a lot of people removed from the rolls. And inevitably, it came to Congress' doorstep because there was a firestorm raging throughout the country. They even took some one off who was in an iron lung. But they said, you've got to get out of the iron lung and go to work.

It was terrible administration. Yet, we did make an effort to try to have some reviews. And that's the biggest period of time in the history of this program that we have had the reviews.

Now I think we've got to take these reviews, and if you put somebody on the rolls for disability, it seems to me like you ought to be prepared then to have a review of them within 3 years. If you put them on you ought to say, we're going to review you within 3

years. As it is, they ride on a lifetime, and we don't know who they are or where they are. Now that's an admitted fact.

So I just say to you, Mr. Chairman, your bill about getting these funds, putting it in a separate category, ought to be used for that purpose so you can't have any choice in it, because SSA disregarded the law intentionally, because they would rather give more help to initial claims. I don't think that's acceptable, and I think we've got to take strong action about it, Mr. Chairman. I hope that we can set about a course to follow.

Chairman JACOBS. Thank you, Mr. Pickle.

Thank you, Dr. Thompson.

Our next witness is our friend Jane Ross, Associate Director, Income Security Issues, Human Resources Division, GAO; accompanied by Barry Tice, Assistant Director, Income Security Issues, Human Resources Division, U.S. General Accounting Office.

Ms. Ross, welcome to the committee.

STATEMENT OF JANE L. ROSS, ASSOCIATE DIRECTOR, HEALTH, EDUCATION AND HUMAN SERVICES DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Ms. ROSS. Thank you, Mr. Chairman. I'd like to have my full statement submitted for the record and I'll summarize it.

Mr. Chairman and members of the subcommittee, I'm pleased to be here today to present our observations on SSA's new process for conducting continuing disability review. We have reported on several occasions that because SSA was not doing the required CDRs hundreds of millions of dollars in unnecessary costs are incurred each year by the Disability Insurance Trust Fund, and public confidence in program integrity is jeopardized.

Overall, Mr. Chairman, we are encouraged by SSA's initiatives to make the CDR process both more efficient and cost effective. We are continuing to be concerned, however, that SSA does too few CDRs, particularly for beneficiaries with the highest potential for being removed from the disability rolls. Finding ways to provide the agency with more funds to do CDRs have merit. We're encouraged by the approaches such as that in the recently introduced bill by you and Mr. Bunning.

My testimony will describe and assess the new CDR process which uses computer analysis along with a questionnaire to decide which beneficiaries should be scheduled for a full medical CDR. It also addresses your concerns about the reliability of this self-reported data. Finally, I'll talk about the need for SSA to do more CDRs, particularly for those beneficiaries identified as having the greatest likelihood of medical improvement.

Having heard Dr. Thompson's testimony, I'll skip much of the background that he covered. As you know, SSA administers two disability programs, DI and SSI. In both of them, although total disability is required for eligibility, some persons do medically improve. The Social Security disability amendments of 1980 established a requirement that SSA periodically review the status of DI beneficiaries to determine if they had in fact medically recovered. SSA also has the authority, but no legal requirement, to do CDRs of the SSI beneficiaries.

Historically, the CDR process has been very labor intensive. Essentially, beneficiaries underwent the same process for CDRs as was used at the time of the first application for benefits. SSA has reported that the cost of doing this full in person CDR averaged over $1,000 per case.

In late 1991, SSA recognized that if it were to increase the number of CDRs, given its heavy workload and tight budget, it would need to find ways to do CDRs at less cost and with a higher cessation rate. SSA conducted a pilot study to test the feasibility of using questionnaires mailed to beneficiaries asking about their health status and work history, and you've just heard a lot of discussion about that.

Beneficiary responses were to be used along with certain information about each beneficiary that was already available in the SSA records. This information that was combined with the self-reported data was information such as age, the length of time on the disability rolls, the date of the last CDR, the number of prior CDRs, and reported earnings. This kind of information combined with the mailer was to help SSA identify beneficiaries who are most likely to no longer be disabled and who should be given the full medical CDR.

In the pilot study, SSA sent 10,000 beneficiaries drawn from a whole range of cases, a questionnaire that you've seen now that asks seven questions about their health and medical care during the last 2 years. Then SSA gave all these beneficiaries full medical CDRs.

By comparing the results of the CDRs with the beneficiaries' responses to questions and with the SSA-developed profiles, SSA concluded that the mailer responses, when they were combined with the profile information, were excellent predictors of whether you would cease or continue a person if you had in fact done the full medical CDR. Further, the new procedure was less costly overall and had a higher cessation rate.

Then based on the results of this pilot project SSA launched their full-scale CDR mailer and indicator process last year. They sent mailers to 92,000 beneficiaries. Out of this they expect 5,400 cessations and program savings of $432 million. SSA will count all the beneficiaries receiving a mailer as having received a CDR.

As Dr. Thompson told you, they have not completed doing all the reviews of these 92,000 cases, but the early reports suggest that the process is achieving its desired result. SSA also plans to send out another 92,000 mailers in 1994.

At this time, we believe that beneficiary self-reported data appear to be reliable to the extent that when combined with profiles SSA can make reasonable decisions about whether to conduct medical reviews on beneficiaries scheduled for a CDR. So what we see is that the mailer information along with the profile is a good way of screening who should actually get a full medical CDR.

As SSA gains more experience with the questionnaire and with their beneficiary profiles they expect to continue refining both, and we certainly support that effort. As they learn more, that mailer ought to be improved. In particular, we believe that a more detailed set of questions should be answered by the beneficiary so as

to reduce the opportunity to falsify current medical or employment status.

SSA, as Dr. Thompson has already told you, also plans to do an integrity sample each year. That is, they plan to review cases of respondents with varying expectations for recovery and do full CDRs on this whole range of people regardless of the answers that folks gave in the mailer. That sample also provides some assurance that all beneficiaries who receive the mailers during the year have some chance of being referred for a full medical CDR. So it wouldn't be possible to be totally certain that your answers on the mailer would keep you from having a medical CDR.

SSA's new CDR process is limited, we think, by its severe budget constraints. They are only budgeted to do 50,000 medical CDRs. To identify more ineligible persons SSA must send out more mailers and send them primarily to beneficiaries identified as the most likely to have improved, and to conduct more full medical CDRs.

Now, finding ways to increase SSA's current budget for CDRs within existing budget constraints may be difficult. As GAO has reported in the past, the Budget Enforcement Act's prohibitions against trading off between discretionary spending and entitlement savings has made the situation more difficult. We continue to support efforts to find ways to remedy this problem. Although we have not studied specific proposals, we're encouraged by such approaches as those suggested in H.R. 3935 introduced by you, Mr. Chairman, and Mr. Bunning.

In conclusion, we support SSA's efforts to make the CDR process both more efficient and more cost effective. We view the mailer process as a significant step in this direction. Beneficiary self-reported data, when it is combined with other key information already in the SSA files, appear to be a reliable way to decide who should have full CDRs.

We encourage efforts to increase SSA's funds to do more CDRs. SSA continues to fall far short of completing the number of DI CDRs required by law and directs very little review effort at the SSI program. As it does more CDRs, SSA should focus its mailers and full medical reviews primarily on those beneficiaries who are the most likely to have improved sufficiently to be no longer disabled. They also need to increase their attention on the whole SSI beneficiary population.

Mr. Chairman, that concludes my statement. I'll be happy to answer any questions you may have.

[The prepared statement follows:]

TESTIMONY OF JANE L. ROSS, ASSOCIATE DIRECTOR INCOME SECURITY ISSUES U.S. GENERAL ACCOUNTING OFFICE

Dear Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to present our observations on the Social Security Administration's (SSA's) new process for conducting continuing disability reviews (CDRs) using computer profiling and beneficiary self-reported data. My testimony is based on ongoing work for your Subcommittee.

SSA designed its new CDR process to be a more cost-efficient means of assessing the continued eligibility of beneficiaries receiving Social Security disability benefits. CDRs are generally required by law and are important to help ensure that only eligible persons continue receiving benefits. Both the Disability Insurance (DI) and Supplemental Security Income (SSI) programs are experiencing enormous growth and currently pay out about $50 billion annually to about 7.5 million disabled beneficiaries. We have reported on several occasions that because SSA was not doing the required CDRs hundreds of millions of dollars in unnecessary costs were incurred each year by these programs,[1] and public confidence in program integrity was jeopardized.

My testimony will describe the new CDR process, which uses computer analysis along with a questionnaire to decide which beneficiaries should be scheduled for a full medical CDR. It also addresses your concerns over the reliability of this self-reported data and SSA's procedures for deciding when to do full medical reviews. Finally, I will talk about the need for SSA to do more CDRs, particularly for those beneficiaries identified as having the greatest likelihood of medical improvement.

Overall, we are encouraged by SSA initiatives to make the CDR process more efficient and cost-effective. We are concerned, however, that SSA continues to do too few CDRs, particularly for beneficiaries with the highest potential for being removed from the disability rolls. Finding ways to provide the agency with more funds to do CDRs continues, in our view, to have merit. As such, we are encouraged by approaches such as those recently introduced in H.R. 3935 by the Subcommittee's Chairman and Ranking Minority Member.

BACKGROUND

SSA administers the DI and SSI programs with the help of state disability determination services (DDSs). DDSs make decisions for SSA about individuals' entitlement to DI or SSI benefits. The DDSs process initial applications and initial appeals of denial decisions and conduct CDRs.

Although total disability is required for eligibility under both the DI and SSI programs, some persons do medically improve. For example, some medical conditions improve over time by therapy, medicines, or surgery. The Social Security Disability Amendments of 1980 (Public Law 96-265) established a requirement that SSA periodically review the status of DI beneficiaries to determine their continuing eligibility for benefits. Except for beneficiaries with permanent disabilities (such as loss of multiple limbs and certain terminal cancers), SSA is required to do CDRs of DI beneficiaries at least once every 3 years. SSA has the authority, but no legal requirement, to do CDRs of SSI beneficiaries. SSA has identified through CDRs thousands of beneficiaries each year who have improved sufficiently from their medical problems to return to work.

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[1]Social Security: Effects of Budget Constraints on Disability Program (GAO/HRD-88-2, Oct. 28, 1987) and Social Security Disability: SSA Needs to Improve Continuing Disability Review Program (GAO/HRD-93-109, July 8, 1993).

Historically, the CDR process is labor-intensive. A beneficiary scheduled for a CDR had (1) a face-to-face meeting with an SSA field office representative, (2) an evaluation of the case by a DDS disability examiner, and (3) frequently, an examination by at least one medical doctor. Essentially, beneficiaries underwent the same process for CDRs as used initially to determine disability. SSA's reported costs to do a CDR in this manner are about $1,230 a case.

About 90 percent of the CDRs conducted over recent years have initially resulted in a finding of continued eligibility. After appeals, only about 6 percent of CDRs resulted in the cessation of benefits. However, even with this somewhat low cessation rate, CDRs have proven to be very cost-effective, currently returning, according to SSA, about $6 in benefit savings for every $1 in administrative costs.

In recent years, SSA has experienced significant program administration problems due to unprecedented increases in applications for benefits under the DI and SSI programs. This pattern of rising initial claims began in 1990 and has continued through 1993. SSA received almost a million more claims in 1993 than the 1.6 million it received during 1989.

As part of many initiatives to keep up with the surge in disability claims, SSA significantly reduced the number of CDRs performed. Since 1987, SSA has done fewer than half the over 2 million CDRs required by law. SSA estimates that compliance would require more than 400,000 reviews of DI beneficiaries annually. In each year since 1990, fewer than 100,000 CDRs have been done for the DI and SSI programs.

In July, 1993, we reported that because SSA shifted resources at the DDSs from CDRs to processing initial claims for benefits, about $1.4 billion in unnecessary benefits would be paid through 1997 to ineligible beneficiaries in the DI program. We estimated that at least 30,000 ineligible persons may be on the DI rolls. Data are not available to make similar estimates for the SSI program, but we are concerned that this program may be similarly impacted by SSA's failure to do enough CDRs. We recommended that SSA continue to examine ways to better target beneficiaries for CDRs and increase the number of CDRs beyond planned levels.

Because of significant budgetary pressures on resources, SSA recognized a need to find ways to do CDRs at lower cost. In September, 1991, SSA began a pilot study to test the feasibility of using questionnaires mailed to DI beneficiaries who were due a CDR to ask about their health status and work history. Beneficiary responses were used with certain indicators about each beneficiary already available from SSA records--such as age, length of time on the disability rolls, date of last CDR, number of prior CDRs, and reported earnings--to help SSA identify beneficiaries most likely to no longer be disabled and who should be given a full medical review.

SSA used the indicators to rank 10,000 beneficiaries into high, medium, and low-case profile categories. The high category represented the 30 percent of beneficiaries most likely to show medical improvement; the medium category represented the 30 percent of beneficiaries next most likely to show medical improvement; and the low category represented the 40 percent of beneficiaries least likely to show improvement. All 10,000 beneficiaries were sent a questionnaire that asked seven questions about their health and medical care during the preceding 2 years.

SSA gave the beneficiaries in the study full medical CDRs. By comparing results of the CDRs with beneficiaries' responses to the questions and the SSA developed profiles, SSA found that

mailer responses combined with profiles were excellent predictors of whether disability benefits would be ceased or continued if a full medical CDR was done.

SSA concluded that beneficiaries could be accurately evaluated for continued eligibility by comparing profiles with the completed questionnaires instead of conducting full medical evaluations for all cases as historically done.

SSA SENT OUT 92,000 MAILERS IN 1993

After appraising the results of the pilot project, SSA launched its current CDR mailer process last year. SSA considered four options for carrying out the mailer process. Each option was designed to yield no more than about 50,000 full medical CDRs for DI beneficiaries--the number budgeted by SSA. The options varied, however, in terms of estimated program savings to be achieved and the number and types of beneficiaries (high, medium, or low profile) to receive mailers. The estimated savings ranged from $335 million for one option involving 128,400 mailers to $472 million for an option involving 69,000 mailers sent only to beneficiaries in a high case-profile category.

SSA chose the option of sending mailers to 92,000 beneficiaries from a mix of high, medium, and low case-profile categories. SSA believed that this option would realize sufficient program savings while enabling staff to implement the new process effectively and learn from the experience. SSA expected this option to result in 5,400 beneficiaries being terminated from the DI rolls and subsequent program savings of $432 million. SSA will count all beneficiaries receiving mailers as having received a CDR.

To carry out the process, SSA used the same indicators from the pilot study to analyze and rank about 640,000 beneficiaries previously categorized as medical-improvement-expected or medical-improvement-possible cases and who were due or past due for a CDR. It then stratified this universe into high (193,000), medium (193,000), and low (255,000) case-profile categories.[2] SSA then selected certain numbers of beneficiaries in each category to receive mailers. SSA sent mailers to the 54,000 beneficiaries in the high category with the highest probability of showing medical improvement, and to the 10,000 beneficiaries in the medium category with the highest probability of showing medical improvement. For the low category, SSA sent mailers to 28,000 beneficiaries with the lowest probability of showing medical improvement.

As of February 25, 1994, SSA had released 91,730 mailers and had received responses from 86,402 beneficiaries. SSA had analyzed 82,075 of these responses and referred 49,984 respondents to the DDSs for medical reviews, while 32,091 respondents were not referred for full medical review.

Early reports suggest that the process is achieving its desired results. SSA staff said that cessation rates are exceeding expectations for certain case-profile categories and that they have collected enough data to enhance future profiling. However, many full medical reviews are still underway and it is too early for SSA to evaluate and fully report on first-year results.

SSA plans to repeat the process for 1994, sending out an additional 92,000 mailers. It will again send mailers to a mix of beneficiaries in high, medium, and low case-profile

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[2]Since then, SSA has profiled other beneficiaries as they became due for a possible CDR. It now has profiled about 1.1 million DI beneficiaries.

categories, expecting to result in approximately 50,000 full medical CDRs.

SELF-REPORTED DATA COMBINED WITH COMPUTER DATA APPEAR RELIABLE

At this time, beneficiary self-reported data appear reliable to the extent that, when combined with case profiles, agency personnel can make reasonable decisions about whether to conduct medical reviews on beneficiaries scheduled for a CDR. SSA's new CDR process does not rely solely on self-reported data. The self-reported information is used along with other information known about the beneficiary and stored in SSA's computer records.

As stated earlier, from the pilot study SSA concluded that such combined data are excellent predictors of the likelihood of beneficiaries' medical improvement. In addition, full medical CDRs given to all mailer respondents in the pilot study despite how they answered the questions suggest to SSA that respondents generally answered truthfully. For example, for the question in the mailer asking beneficiaries if their health was better, the same, or worse since they began receiving disability benefits, over 600 beneficiaries said that their health was better. Medical reviews of these beneficiaries showed that 33 percent could be removed from the disability rolls. Conversely, medical reviews of about 2,700 respondents who said that their health was worse showed that only 3 percent could be removed from the disability rolls.

Reasonable Procedures Established for Determining Need for Full Medical Review

SSA has established reasonable procedures for determining when to do full medical reviews of beneficiaries based on self-reported data. Whether a beneficiary's self-reported data suggest the need for a full medical CDR depends on two primary factors: the beneficiary's responses to specific questions and the beneficiary's profile.

SSA has a mailer review team composed of a clerical person and a disability examiner (DE). Initially, the clerk reviews all returned mailers. Using SSA-developed guidelines, the clerk will either schedule the respondent for a full medical CDR or refer the mailer, with the respondent's profile, to a DE. Certain beneficiary responses will result in a full medical review no matter what the profile shows. For example, if respondents answer that their health has improved, they will be referred for a full medical review despite their profile--high, medium, or low. On the other hand, if certain responses do not suggest the likelihood of medical improvement, the DE will review the mailer responses, respondent's profile, and previously obtained medical records, and possibly contact the respondent. The DE then will either schedule the respondent for a full medical CDR or reschedule the case for future review.

The reported costs of the CDR mailer process are significantly lower than the reported costs of the historical CDR process. Mailer process costs are reported at about $24 per case--a fraction of the reported $1,230 average cost of performing a full medical CDR on each beneficiary. The key point in comparing costs of the two processes is that the historical process generally involved complete evidence gathering and a full medical review for all cases. Now, those cases determined from the mailer and profile information to be benefit continuances will only incur the mailer process costs.

SSA to Test Reliability of Self-Reported Data

To test its process, particularly the reliability of using beneficiary self-reported data, SSA draws an "integrity sample." SSA plans each year to review samples of respondents in each case-profile category independent of mailer answers. Full medical CDRs will be done on all beneficiaries in the samples despite their response to questions in the mailer. SSA believes that the results of these samples will provide a statistically reliable measure of the program's effectiveness. The samples also provide some assurance that all beneficiaries who receive mailers during the year have some chance of being referred for full medical review.

At this time, SSA has not completed full medical reviews of all beneficiaries in the integrity samples. These are expected to be completed over the next several months. SSA plans to evaluate the results of completed medical reviews to determine any changes needed in the mailer process for future years.

MORE REVIEWS ARE NEEDED

We are concerned by the limited number of CDRs SSA has been able to do in recent years and believe more CDRs are needed. As mentioned earlier, for both disability programs, SSA has done less than 100,000 CDRs annually since 1990. In 1993, less than 50,000 CDRs were done. CDRs are important because the failure to do CDRs means that increasing numbers of persons no longer entitled to benefits remain on the rolls. If these persons continue to receive payments, public confidence may erode and support weaken for the programs.

We recognize the severe workload demands that SSA faces and the difficulties in applying limited staff resources where they are most needed. These budget difficulties are limiting the effectiveness of SSA's new CDR process in 2 ways: (1) SSA's budget has placed a cap on the number of full CDRs that can be done and (2) within the cap, efforts are not focused primarily on persons most likely to have medically improved.

While SSA's CDR efforts for 1993 and 1994 may result in about 5,000 terminations annually, they will fall far short of identifying most of the ineligible persons on the DI rolls. Also, only those SSI beneficiaries who receive DI benefits concurrently have been included to date in SSA's new CDR process.

To identify more ineligible persons, SSA must conduct more full medical CDRs. It must also send out more mailers, primarily to beneficiaries identified as most likely to have improved. Previously, SSA estimated that if it sent mailers to all 193,000 persons placed in the high category (for possible improvement) it might have to conduct about 130,000 CDRs, or almost 3 times its budgeted number. The payoff, however, would be in the possible termination of about 11,000 additional ineligible persons and further savings of about $900 million.

Finding ways to increase SSA's current budget for CDRs within existing budgetary constraints may be difficult. As we have reported in the past, the Budget Enforcement Act of 1990's prohibitions on trading off between entitlements and discretionary spending has made the situation more difficult. In this regard, we continue to support efforts to find ways to remedy this problem. Although we have not studied specific proposals, we are encouraged by such approaches as those suggested in H.R. 3935, recently introduced by the Subcommittee's Chairman and Ranking Minority Member.

Chairman JACOBS. Thank you, Ms. Ross.

Mr. Bunning.

Mr. BUNNING. Ms. Ross, thank you for being here. Clearly there is a need to get SSA back on track with the CDR process. Are you telling us that the GAO is supportive of Chairman Jacobs' bill, or aren't you? I wasn't quite sure what I heard.

Ms. ROSS. We think that the way to get more CDRs done at SSA is you will need to provide more discretionary funding.

Mr. BUNNING. We did that, and as you've heard from the questioning today, they determined to use that money for other purposes. Now we have difficulty, if stung once, to do it again. In other words, if they're going to rob Peter to pay Paul, we're going to have the same problem over and over and over. So how would you make sure that if we put discretionary money out there that the Social Security Administration would use it for the purpose for which we allocated it?

Ms. ROSS. I'm not a budget expert, but I really——

Mr. BUNNING. Obviously, the Congress isn't too good at it either.

Ms. ROSS. I thought that the concept in your bill of taking money from the trust funds, which is where SSA always gets its administrative money, and trying to use it, but attempting to tie it to the CDRs, seemed a step in the right direction. But I really have to hasten to add that we have a whole bunch of budget experts at GAO and I'm not among them.

Mr. BUNNING. Let me ask you a question. Aren't overdue CDRs responsible for some of the problems we heard at our last hearing concerning the payment of benefits to drug addicts and alcoholics? The lack of the timely CDR impacts on payments to addicts in both programs, doesn't it?

Ms. ROSS. Yes, I certainly believe if you had CDRs in a more timely fashion——

Mr. BUNNING. In other words, we would have less of that problem?

Ms. ROSS. Absolutely.

Mr. BUNNING. Has the GAO actually reviewed the CDRs initiated by mail and done a followup face-to-face?

Ms. ROSS. Are you asking, have we read the files?

Mr. BUNNING. Yes, and followup. Have you done that?

Ms. ROSS. We haven't read particular files of people's reviews, no.

Mr. BUNNING. Then how do you come to the conclusions that you have testified to on the mailings?

Ms. ROSS. One piece of information I can give you is based on the pilot study that SSA did. It has to do with whether people answer truthfully. For example, for the question in the mailer asking beneficiaries if their health was better, the same, or worse, over 600 beneficiaries said their health was better and medical reviews of these beneficiaries showed that 33 percent of those people could be removed from the rolls. But that's not so surprising.

Conversely, medical reviews of about 2,700 respondents who said that their health was worse showed that when they did the full CDR review only 3 percent could be removed from the rolls. So we looked at that kind of information that Social Security had summa-

rized about the results of their medical CDRs compared with the mailer and profile information and felt comfortable——

Mr. BUNNING. Then you did followup and check after the medical review was done. Is that what you're telling us?

Ms. ROSS. I'm telling you that we followed up with SSA. We did not read individual files.

Mr. BUNNING. Then you just took for granted what the SSA had in their records was fact?

Ms. ROSS. Yes.

Mr. BUNNING. No questions. Go ahead.

Chairman JACOBS. Mr. Pickle.

Mr. PICKLE. Ms. Ross, last year as I recall you testified that while improvements should be made in the DI program and that they must be made in the DI program, still you said that in the short run the only answer, the only solution is for more staffing and more money for this program. Is that still your opinion?

Ms. ROSS. Given that Social Security has decided that they're going to address their backlog problem first, the only way for us to get more CDRs is to put more resources into that.

Mr. PICKLE. More staff and more funding for whatever purpose. But primarily, if you're going to attempt to improve the DI program you've got to spend that money for that program. So my question to you is, has the administration requested sufficient money for that program in your opinion?

Ms. ROSS. I don't think they have budgeted enough money for CDRs, and I suspect they can't find it within their current budget. I don't think doing 92,000 mailers and 50,000 completed CDRs is anywhere near the amount that should be done. For one thing, it's only one-eighth of what the law says ought to be done.

Mr. PICKLE. Part of your testimony showed that on self-reported information from these CDR mailers that it "appears reliable." Can we depend on beneficiaries who are just intent on gaming the system by failing to report medical improvement to be caught under the SSA mailer?

Ms. ROSS. The integrity sample that SSA plans to do every year ought to help in the same way that our knowing that IRS audits a certain number of tax returns does in keeping people a little more honest. When we said that we thought the mailer ought to be improved, one of the kinds of things that we thought ought to be added—and it's a question that SSA has already talked about adding—is if a person says they're either not improved in terms of their physical health or they have improved, to ask for the name or names of their doctors and have them write those things down. That may impede some of their——

Mr. PICKLE. I think we hope that a mailer will be helpful. But the original pilot study on this approach was on a person-to-person, eye-to-eye basis not on a mailer. I think that was the original intent. Now the question is, we have to hope we do get some information. But the cold fact of the matter is, you've got to ask for more money and more staffing to do the specific job that we've ordered.

Thank you, Mr. Chairman.

Chairman JACOBS. Mr. Houghton.

Mr. HOUGHTON. I'd like to ask you a very simple question. You've got a problem. Big dollars are slipping away. Congress has tried to

help. Evidently it's not doing a very good job of helping. So do you think that the problem is lack of funds or lack of proper management?

Ms. ROSS. I think there's a lack of funds. I don't see, given that SSA has decided to work its initial backlogs in the disability program, that there's any way to get the CDRs done except to have more funds.

Chairman JACOBS. Ms. Ross, it's my understanding that the GAO finds no revenue gain in Mr. Bunning's and my proposal. Is that correct, you score it as zero? Or is that CBO?

Ms. ROSS. That's CBO. We're just GAO. We don't score.

Chairman JACOBS. Yes, but you're a functioning intellect. Does it make sense to you that there's a gain from this proposal to the taxpayers, to the trust fund?

Ms. ROSS. It certainly makes sense to me that if you spend more money on CDRs you'll get six times as much money back in the trust fund.

Chairman JACOBS. One drawerful. Thank you very much.

We'll call the Congressional Budget Office. What's the score here?

Dr. Cullinan, we welcome you to the committee.

STATEMENT OF PAUL CULLINAN, PRINCIPAL ANALYST, BUDGET ANALYSIS DIVISION, CONGRESSIONAL BUDGET OFFICE

Mr. CULLINAN. Thank you, Mr. Chairman. I would like to have my entire statement submitted for the record, if it would be possible, and to try briefly to go through particularly the front end of it and then move to the scorekeeping issues.

As has been stated here by both the GAO and the SSA, the mandated reviews have not been performed at the level of frequency required under law. The reason is generally considered to be one of budgetary resources; that is, of insufficient resources being allocated or of an unwillingness to allocate resources to this process.

There are several reasons that could be cited for the lack of performance of reviews. These types of administrative activities are very costly, and on occasion, incorrect decisions apparently have been made. Those kinds of decisions can result in significant adverse public attention. Those factors may be elements in why, over time, the CDRs have not been done as thoroughly or as completely as they might have been done if SSA had been acting in accordance with the law.

Why SSA does not have the administrative resources to comply fully with the law has led many to question what was done in 1990 in the Budget Enforcement Act. Many supporters thought that the Omnibus Budget Reconciliation Act of 1990 would remove all Social Security activities from budgetary considerations. Instead, the administrative expenses of the Social Security Administration were included under the discretionary spending limits. As a result, any increases in discretionary spending for SSA must come at the expense of other domestic or defense-related programs.

However, I should point out that even if SSA administrative spending were not subject to the caps, the appropriations commit-

tees would not necessarily grant authority to this agency to use all of the resources it might want for any or all of its activities.

Few people would question whether continuing disability reviews are an efficient use of resources. Evidence is continually being presented that the use of resources in this way is cost-effective. The returns to these administrative resources, assuming that the CDRs are done in a reasonable fashion, generally take the form of benefit savings.

Although the long-term impact of continuing disability reviews is virtually unquestioned, the short-term budgetary impact is, in fact, adverse. CDRs are an investment like any other. You have to spend some money up front in order to get savings later on. And CDRs are expensive—roughly $1,000 apiece, or perhaps more. Therefore, in the early years, a program of gearing up to do more CDRs than SSA is currently doing would actually increase rather than reduce spending. Of course, in the long run, the government would save money, relative to what we are doing now.

Budget scorekeeping is not a precise science. Scorekeeping requires a certain level of professional judgment. The Congress relies on the budget committees and the CBO to score legislation as it moves through the legislative process. But OMB is the ultimate scorekeeper for bills in its role of enforcing the Budget Enforcement Act and the Balanced Budget Emergency Deficit Control Act.

In general, CBO does not score any savings in benefit costs that might result from legislation that increases administrative funds. Administrative efforts to increase continuing disability reviews, debt collection, tax enforcement, Medicare payment safeguards, and other such provisions have variable returns, and those returns are uncertain. As a result, a longstanding practice has developed that any direct spending and revenue savings or costs that might result from increases or decreases in funding for administrative activities are not scored against the budget allocations provided to committees.

Estimating the savings from CDRs is very difficult, in part because there is a great deal of discretion on the part of administrators. In addition, we are unsure about the level of returns to those types of CDRs depending on the level of funding. One would expect that the rate of return on the resources invested in doing CDRs right now should be fairly good—fairly high—because we have not been doing them. We should be able to target resources relatively well to get at those cases that are most likely to show medical improvement.

However, history does not provide a terrific guide for what will happen when the level of reviews is increased. After the moratorium in the mid-1980s, the initial sets of reviews that were done did not show high levels of cessation of benefits, largely because many of the cases chosen were ones that were not expected to result in benefit terminations. In other words, SSA chose, given its limited funds, to target certain types of impairments, and some of those impairments were not the ones that were most likely to show improvement.

Similarly, some observers have speculated that in the mailer process, the targeting has not been as pointed as it might have been to get at those cases that would be most likely to be termi-

nated. Thus, the reason for not scoring changes in direct spending or revenues from the appropriation of administrative funds is largely a pragmatic one. The administration of any entitlement program or the administration of tax law requires appropriations. If you do not have the funds, you cannot administer a program. But no precise relationship exists between benefit payments or tax collections and the overall level of administrative funding.

By convention, therefore, CBO scores against the budget allocations of the authorizing committees only the effects of their legislation on direct spending and revenues, and not the appropriations needed to carry out those activities. Similarly, the appropriations committees are charged only for the funds they make available directly.

Now, one element that has some relation to this issue is that last year, the Congress added $320 million for a disability investment fund in the basic appropriation. The money was specifically meant to expedite the processing of claims, both initial claims and CDRs. But when those additional funds were made available, CBO did not score any additional benefit cost that would have resulted from working down backlogs that existed. Obviously, when you pay out moneys faster, at least in an annual budgetary context, you are going to be spending more than you would have spent had you not processed those claims as quickly.

A corollary to this sort of treatment relates to H.R. 3935, which is that no matter how you provide administrative funds, the budgetary scoring should not be different. That is, we should not allow a treatment that says that if one committee does something, they will be scored in one way, but if another committee does it, they will be scored differently. Therefore, we will be dealing with the administrative costs of H.R. 3935, but we will not be scoring any direct spending consequences of those funds.

In conclusion, CBO agrees with GAO and SSA that continuing disability reviews are an important element of ensuring the integrity of the disability insurance program and that they are generally a good investment. The Congress and the public deserve to know that only those people who are legally entitled to benefits continue to receive them. With SSA's administrative expenses, including the funding for CDRs under the discretionary limits, it will be up to the Congress to determine whether it is necessary to allocate more money to SSA and less to other activities.

H.R. 3935 would appear to extricate the CDR process from the spending caps, but whether and by how much the discretionary caps would be changed by this reclassification would be up to the Office of Management and Budget.

Thank you, and I'm ready to answer your questions.

[The prepared statement follows:]

STATEMENT OF PAUL CULLINAN
PRINCIPAL ANALYST, BUDGET ANALYSIS DIVISION
CONGRESSIONAL BUDGET OFFICE

Mr. Chairman, I am pleased to appear before you today to discuss the budgetary implications of continuing disability reviews (CDRs) in the Social Security Disability Insurance (DI) program, and how the Congressional Budget Office (CBO) would account for or score legislative changes to CDRs. I will begin by briefly reviewing the current status of CDRs and their history.

The Social Security Administration (SSA) currently undertakes two kinds of CDRs--those that result from reports of earnings and those that SSA initiates under the authority provided in Section 221(i) of the Social Security Act. The latter mandate was enacted in 1980 and subsequently modified in 1982 and 1984. It is this second form of CDR that became controversial and is the subject of this hearing.

CDRs under Section 221(i) are supposed to be undertaken for people with potentially nonpermanent disabilities once every three years, while people with permanent disabilities are to be scrutinized at such times as the Secretary of Health and Human Services determines to be appropriate. Individuals found to have recovered, in medical terms, sufficiently to enable them to work have their benefits terminated. The frequency of reviews, however, has diverged substantially from the legal mandate. As documented in General Accounting Office (GAO) reports as well as SSA documents, SSA has performed a very small percentage of the required CDRs since 1991.

The reason for this paucity of reviews is generally thought to be budgetary--that is, given the resources allotted to the administration of the Social Security programs, SSA has been unable or unwilling to allocate sufficient resources to complete the required CDRs, which are both expensive and controversial. The average CDR usually costs more than $1,000 and is unlikely to result in a ruling that benefits should be terminated. In addition, some of these rulings may be in error and can result in considerable adverse public attention, as was the case in the early 1980s. Both of these factors may help to explain why, with the limited funds appropriated, SSA has fallen short of its mandate for CDRs.

If the reason for not conducting the required reviews is limited resources, one could reasonably ask why the administrative funds are so scarce. After all, the Social Security trust funds are running surpluses of more than $40 billion a year and rising. The principal reason is that the Balanced Budget and Emergency Deficit Control Act of 1985 and its subsequent modifications have, for all practical purposes, required that the appropriations committees reduce the amounts available to other discretionary programs if they increase SSA's administrative funds. Many supporters thought that the Omnibus Budget Reconciliation Act of 1990 would isolate the Social Security trust funds from annual budgetary decisions. However, including SSA's administrative funds within the domestic discretionary spending limits has in fact meant that increased appropriations for SSA must come at the expense of other popular federal activities. But, even if SSA's administrative budget were not subject to the discretionary budget caps, the appropriations committees might still be wary of supplying SSA with all the resources the agency requested.

BUDGETARY EFFECTS OF CDRs

Few people would dispute the efficacy of CDRs. Both GAO and the SSA's Office of the Actuary have demonstrated that, over time, the benefit savings from terminations flowing from CDRs more than offset their administrative costs. CBO essentially concurs with these findings, though the timing of the costs and savings are difficult to predict.

Whereas the long-term effect of CDRs would be to reduce total federal spending, the outlook for them during the current five-year budget period is less clear. Initiating CDRs and following them through to the point of terminating benefits is often a lengthy process. Many terminations result in requests for reconsiderations, appeals to administrative law judges, and further review by federal district courts. Consequently, considerable resources are expended initially on the process; unfortunately, the eventual benefit savings accrue only later.

BUDGETARY SCOREKEEPING PRACTICES

Budget scorekeeping is not a precise science. Estimates require professional judgment. In addition, CBO, the budget committees, and the Office of Management and Budget (OMB) have developed various rules and guidelines for handling certain complex cases. On occasion, these organizations differ on how legislation is to be scored. The Congress relies on its budget committees and CBO for scoring bills as they proceed through the legislative process, but OMB scores bills for purposes of implementing the Balanced Budget and Emergency Deficit Control Act.

In general, CBO does not score any savings in benefit costs that might result from legislation that increases administrative funds. Savings from administrative efforts to increase continuing disability reviews, debt collection, tax enforcement, Medicare payment safeguards, and other similar provisions are particularly variable and uncertain. As a result, a long-standing budgetary practice has been that any direct spending or revenue savings (or costs) that might result from increases (or decreases) in funding for administrative activities are not scored against the budget allocation assigned to any committee pursuant to a budget resolution.

Estimating the potential returns to activities such as CDRs depends on several factors. The effects are subject to considerable administrative discretion and are likely to differ by the levels of funding and the degree to which the CDRs are targeted toward the types of beneficiaries most apt to recover. The rate of return to CDR investments will probably fall over time with higher funding levels, particularly after the easiest cases are evaluated and the program begins to review cases for a second and third time. Moreover, no reliable data exist that allow us to compare the cost-effectiveness of the first $20 million of administrative funds used in the reviews versus the last $20 million. Even the issue of what is already being spent in the baseline on CDRs is controversial. As defined in the Balanced Budget Act, the baseline is not based on a programmatic concept but rather on inflating existing appropriations. But no explicit assumption exists about the number and form of CDRs.

Furthermore, the past provides little guide as to how an agency will use its funding for CDRs and other priorities. For example, right now, one would expect that increased funding for CDRs would yield relatively high termination rates because SSA can focus its resources on recipients with those medical conditions having the greatest rates of improvement. However, following a similar backlog that developed during the CDR moratorium of the mid-1980s, the initial set of CDRs using the new medical improvement standards brought about very few terminations. In part, this outcome resulted from a decision not to target those with the greatest likelihood of improvement. Similarly, some people have speculated that the mailers that SSA recently sent to 92,000 DI recipients did not fully use the profiling data the agency has developed, which could have helped to select only the cases with the highest probability of termination.

Thus, the reason for not scoring changes in direct spending or revenues from the appropriation of administrative funds is a pragmatic one. The administration of entitlement programs and the tax collection system requires appropriations. Clearly, Social Security benefits could not be paid and taxes could not be collected without the provision of administrative funds. But no precise relationship exists between benefit payments or tax collections and the overall level of administrative spending. By convention, therefore, the authorizing committees have scored against their budget allocations only the effects of their legislation on direct spending and revenues, and not the appropriations needed to administer those activities. Similarly, the appropriations committees are held accountable only for the funds they provide directly.

For example, consider the fiscal year 1994 appropriation for SSA administrative expenses. An additional $320 million was attached to the basic appropriation specifically to improve and expedite the handling of DI and Supplemental Security Income claims. Although this appropriation arguably would have increased benefit payments under Titles II and XVI, these additional benefit costs were not scored.

A corollary of this pragmatic scorekeeping rule is that the budgetary treatment of legislative action should not depend on the method of providing funding. That is, funding for administrative functions in authorizing bills should not receive different treatment from funding through appropriation bills. Consequently, legislation designed to provide administrative funds for CDRs that are not subject to annual appropriations would receive no different treatment than the same funds allocated by the appropriations committees.

CONCLUSION

In conclusion, the Congressional Budget Office agrees with GAO and SSA that continuing disability reviews are an important element for ensuring integrity of the Disability Insurance program and are generally a good investment of administrative resources. The Congress and the public deserve to be reassured that disability benefits are available only to those who meet the legal requirements. However, within the limits on discretionary spending that the Congress itself established, elected officials must decide how to allocate scarce resources and determine whether to spend funds on continuing disability reviews, law enforcement, education, or others of the multitude of important national functions.

Chairman JACOBS. Mr. Houghton.

Mr. HOUGHTON. If I understand you—and I'm just going to take just an example. If I told you I could save $100 billion, but it would require an expenditure of $50,000 and there was no place else to get it other than to go over the budget, you would not appropriate the $50,000 to save $100 billion?

Mr. CULLINAN. Mr. Houghton, if I could I would provide the $50,000 to save that money. But within——

Mr. HOUGHTON. Wait a minute. Everything is tight and you have to find a way of getting money in order to get a return of $100 billion.

Mr. CULLINAN. Then I would think that one could find a way to come up with those funds to——

Mr. HOUGHTON. You're not answering my question.

Mr. CULLINAN. The limits in the Budget Enforcement Act were created by an act of Congress, and those limits constrain funding on discretionary activities. It is up to the Congress and the President to agree on the distribution of that spending. It does seem imprudent not to spend sufficient resources in activities such as continuing disability reviews, tax enforcement, and Medicare payment safeguards that are clearly efficient uses of resources and beneficial to the way the programs function, and that might restore public confidence in the way taxpayers' dollars are being used.

Mr. HOUGHTON. So therefore, you don't agree with the system of scoring we have now?

Mr. CULLINAN. I don't believe that's what I said.

Mr. HOUGHTON. I'm not quite sure what you did say. But the fact is that there is no system under your scoring mechanism to enable us to spend money to make money unless you take it from some other place.

Mr. CULLINAN. There is a peculiarity in the House scoring rules put forth as a result of the Budget Enforcement Act. According to its provisions, Social Security spending is not subject to any budgetary constraints except for those set by the House with regard to benefit payments. These are not benefit payments that we are talking about here. The discretionary spending limits apply to administrative funds. That was a decision of the Office of Management and Budget, one that the Congressional Budget Office at the time did not agree with.

But the program proposed in the chairman's and the ranking member's bill in fact creates a new direct spending category that would not be scored in the House against any allocation that exists. Therefore, as far as the legislative process in the House is concerned, it will have no impact on these items. When this legislation goes to the Senate, if it were to go so far, then there would be an issue because the Senate in its resolutions and its points of order sets up spending allocations with regard to the nonadministrative expenses of the program. But in the House, there is no particular budgetary hurdle that we can see that would prevent this legislation from moving forward.

Chairman JACOBS. Mr. Cullinan, if you pay what you already owe, is that an increase in spending, if you've already incurred the obligation?

Mr. CULLINAN. We do not figure such spending on an accrual basis, sir, but on a cash accounting basis. Yes, that would be an increase.

Chairman JACOBS. I submit, therefore, that there is a difference between greater efficiency in paying what the law requires to be paid in terms of benefits and discovering the mispayment of benefits. There is a distinction, isn't there? You said in your testimony it's just a matter of which committee does it. But isn't there a distinction if the Social Security system already owes to those who are eligible a certain benefit, and there are greater funds allocated for administration to meet that allocation. The payment of those benefits is not new spending, it is merely the funding of spending that is already, by law, obligated to those taxpayers who become disabled, isn't it?

Mr. CULLINAN. Should they choose to come forward and apply for the benefits and be certified as qualified, yes.

Chairman JACOBS. However it's done. They do come forward, and they wait sometimes until they're in heaven to get them. So if there is a disparity between simply more efficiently paying your debts—the obligation that's already there to the taxpayers who put up the money to make it available in the trust fund—on the one hand, and avoiding paying those to whom you do not owe a debt, then why wouldn't you score differently our legislation from legislation that makes more efficient the payment of the debt?

Mr. CULLINAN. It is a convention that has been developed largely from——

Chairman JACOBS. That's what I wanted to hear you say. I just have one other point to make, with great gratitude to Bill Maulden the cartoonist, who in World War II had a cartoon showing a major at a card table out in the field saying to one of the privates, who was holding his fingers through his steel helmet, "Nonsense, G–2 reported that gun silenced hours ago, and stop wiggling your fingers at me." What we're trying to do is wiggle our fingers at you a little bit.

On the other hand I add, as long as you score it as neutral—and as you say, the process could go forward—I think we're happy to be happy, and we'll settle for that.

Thank you very much for your contribution.

[Recess.]

Chairman JACOBS. Will the panel please come forward? For the record, this panel consists of the National Association of Disability Examiners, Robert Burgess, president; National Council of Disability Determination Directors, Charles A. Jones; American Federation of Government Employees, Steve Kofahl; and the National Senior Citizens Law Center, Ethel Zelenske. Welcome back, and if you'll proceed in the order in which you're listed it probably will seem fair.

STATEMENT OF ROBERT BURGESS, PRESIDENT, NATIONAL ASSOCIATION OF DISABILITY EXAMINERS

Mr. BURGESS. Mr. Chairman, with your permission, we'd like to submit the written testimony for the record and offer supplemental testimony. We thank you for the opportunity to comment on this important bill.

We've been unable to conduct a full CDR program since the moratorium. The reason for this and all other major crises lie in the sacrifice of quality for processing time since 1971. Now we have neither consistent quality nor good processing time. Since 1971, the link between QA and realistic, knowledgeable, impartial medical assessment has been broken. This has made QA serve whatever wind is blowing across the program rather than QA ensuring consistent decisions based on good medical assessment.

The virtual nonexistence of QA in the 1970s led to a multitude of unwarranted allowances. That led to an overreaction and a multitude of unwarranted denials in the 1980s. In the 1980s, QA became linked with a recipe approach to adjudication which preempted good medical judgment. The courts then reacted to the stringency and remanded over 1 million cases. The DDSs mandated a tremendous amount of procedural redtape. The growing liberality of applications has dramatically increased our workload.

So the combination of remands, redtape, and the high number of applications spurred by ALJ appeals, the *Zebley* phenomenon, and so on and so forth, with constricted resources of both funding and personnel have made it impossible to conduct a full CDR workload. All of this could have been prevented if we had not sacrificed a viable QA for the sake of processing time. Without a viable QA future crises will continue to arise. Much more could be said about this, but now to the press release.

We believe it's possible that more than 1.2 million cases are awaiting a full medical workup. Although statistics show that 861,000 cases were reviewed from 1987 to 1990, few of those received a full medical workup. The large number of cases hardly impacted the DDS workloads. By comparison, 318,000 *Zebley* cases impacted DDS workloads tremendously. SSI-only cases receive no systematic medical review. As stated before, well over 1.2 million cases may be awaiting a full medical review. H.R. 3935 is much needed.

Second, the CDR mailers strike us as unnecessary. SSA has a three-tiered diary system, one of which is a medical improvement expected. We would think that they would just pull those cases. These would be the ones who have the most potential for termination of benefits and would perhaps increase the percentage of those ceased because of medical recovery.

Third, the expectation that reliance on voluntary reporting by beneficiaries will preserve program integrity strikes us as incongruous with the desire that led these folks to seek benefits in the first place.

Fourth, if a full CDR program were to take effect through this bill, we do not believe that it would receive the adverse public reaction that occurred in the early 1980s. We think that SSA has rescinded certain recipes such as found in Social Security ruling 82–51, which created some of the stringency. The presence of hearing officers in the DDS will ameliorate some of the more egregious denials. And of course, the medical improvement review standard will stave off some of those terrible decisions that were made in the early 1980s.

Finally, the medical improvement review standard does present a complication for CDRs; 291,000 appealed to ALJs in 1989. That

number rose to 509,000 in 1993. If ALJ decisions are correct, medical improvement is no problem, but if over half of those decisions are in error, the MIRs guarantees a permanent place on the rolls.

On the other hand, if DDSs should be making ALJ-type decisions, our incidence rate would shoot up to about 60 percent at a bare minimum, possibly 70 percent. We will create perhaps another pocket of benefit recipients who are able to work and yet be on the rolls.

We believe that this bill is vitally necessary to restore the integrity of the program. Thank you.

[The prepared statement follows:]

STATEMENT OF ROBERT BURGESS, PRESIDENT AND CARROLL D. MOORE, LEGISLATIVE CHAIRMAN NATIONAL ASSOCIATION OF DISABILITY EXAMINERS

CHAIRMAN JACOBS AND SUB-COMMITTEE MEMBERS:

On behalf of the National Association of Disability Examiners, I am pleased that you have extended to us the opportunity to appear today and testify on the proposed legislation known as H.R. 3935 which intends to improve the procedures for terminating people from the disability benefit rolls who are no longer disabled.

I. CDR REVIEWS

We, too, are concerned with the huge numbers of claims that are awaiting CDR reviews, and the negative effect these overdue reviews are having on the trust fund. While your press release indicates that 1.2 million CDRs are now overdue, we believe the number could be much higher. The following chart shows the number of disabled claimants added to the disability roll since 1984.[1]

	DI	SSI
1984	362,000	353,000
1985	377,000	333,000
1986	417,000	424,000
1987	416,000	400,000
1988	409,000	394,000
1989	426,000	423,000
1990	468,000	506,000
1991	536,000	602,000
Total	3,411,000	3,435,000

In 1992, 1.3 million beneficiaries were added to the roll, but we do not have the breakdown into the DI/SSDI categories.

The number of CDR reviews from 1986 through 1991 were as follows:[2]

	DI*	Continued	Ceased
1986	45,359	42,805	2,554
1987	164,055	143,712	20,343
1988	290,942	257,377	33,565
1989	261,824	237,722	24,102
1990	144,180	129,026	15,154
1991	45,446	39,749	5,697
Total	951,806	850,391	101,415

* No CDRs are being done for SSI-only claims. While we realize this is outside the purview of this Subcommittee, it adds to the picture of a weak CDR program.

The figures in these above tables indicate that quite a few more than 1.2 million claims may be waiting for a full medical CDR. The General Accounting Office has estimated that up to 250,000 claims per year have maturing diary

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[1] Koitz, Kollman, and Neisner, "Status of the Disability Programs of the Social Security Administration," September 8, 1992, CRS-80, 83, Tables 17, 20.

[2] 1992 Green Book, p. 63.

dates.[3] It is projected that the annual administrative cost of maintaining 20,000 beneficiaries on the disability rolls is between $150-200,000 per year.[4] This does not include the benefits cost. In providing funding to conduct CDRs, H.R. 3935 will help significantly to restore public confidence in the integrity of the program. We, therefore, endorse and support establishing the special revolving fund for CDR reviews, so long as this does not reduce the funding otherwise available for processing initial and reconsideration claims. We suggest that Congressional action be taken to remove the SSA administrative cost from the unified budget. This has been considered previously, and we have testified in favor of such action and continue to believe this is much needed.

II. CDR MAILERS

We have significant doubts about the effectiveness of the CDR mailers. Under this procedure, the CDRs with the greatest potential for cessation had long overdue re-examination diaries that should have been pulled years ago. The appropriate cases which should have been sent to the DDSs were the Medical Improvement Expected (MIEs) and Medical Improvement Possible (MIPs). However, many of the CDRs that arrived at the DDSs were neither of these two categories, but were Medical Improvement Not Expected (MINE) cases which were not properly screened by SSA. The MINEs should not be sent to the DDSs. Further, it is going to be impossible to remove some of the CDR claimants from the rolls because they were originally allowed by ALJs, even though they did not meet the definition of disability, and it is impossible for state DDSs to establish that medical improvement has occurred.

We further question the validity of depending on beneficiaries to report on themselves. We should not rely too heavily on this process as a panacea for the CDR problem. Is it logical for us to expect the same claimants who engage in efforts to get on the benefit rolls to also police themselves once they have come to rely on these benefits? Claimants who do maintain total honesty in their responses will be "penalized" in that their CDR decisions are more likely to result in a cessation and subsequent loss of benefits. We believe that making a continuance decision on the basis of self-reported data is inconsistent with the program requirements of the other levels of adjudication where objective medical evidence is required. In essence, we question the appropriateness of attempting to operate a CDR process on the basis of self-reported mailers. Rather, we propose that adequate funding be provided so that continuing disability reviews can be timely undertaken when diary dates are due and that appropriate medical investigation can be undertaken by the DDSs to assure accurate CDR decisions.

This concludes our statement. On behalf of our Association, I want to thank you, Chairman Jacobs, and Representative Bunning for your initiative in drafting this proposed legislation to improve the CDR process. We wish you much success, and in fact, we believe that the integrity of the program depends on improving and expanding the CDR process. Thank you for holding this hearing and for affording us the opportunity to comment on this issue.

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[3] "Growing Funding and Administrative Problems," GAO/T-HRD-92-28 p.7.
[4] Koitz, Kollman, and Neisner, supra vide, p. CRS-19.

Chairman JACOBS. Thank you, sir.
Mr. Jones.

STATEMENT OF CHARLES A. JONES, PRESIDENT, NATIONAL COUNCIL OF DISABILITY DETERMINATION DIRECTORS

Mr. JONES. Thank you, Mr. Chairman. I'd like to summarize our testimony this morning. We are in favor and support of H.R. 3935. We do support though a responsible continuing disability review. I say responsible because we're not advocating a return to the accelerated CDRs that began in March 1981 and ended with State moratoria and thousands being terminated inappropriately.

We feel that a responsible CDR process must contain the following characteristics. One, identification of beneficiaries that are medically improved and are no longer disabled.

Two, sufficient resources for the Social Security Administration and the DDSs to conduct these reviews in addition to adequate resources to process initial workloads.

Third, we believe that a responsible process should contain provision for research and recordkeeping that will identify data that can be used to more efficiently focus continuing disability reviews and to facilitate return to work.

With these criteria in mind, the NCDDD offers the following comments regarding H.R. 3935 and the CDR mailer process. We support the provisions of the bill that require that a portion of the benefit savings from CDRs be credited to a CDR account in the DI Trust Fund for administrative expenses to cover the CDR reviews.

The funding in this account should be sufficient to cover all administrative costs related to processing of CDRs for both SSA and for the DDSs. Funding should be sufficient to allow the DDSs to hire and train staff, to provide adequate service to disability beneficiaries, including the ability to respond accurately to their questions.

Temporary staff and additional overtime will not result in timely and quality CDRs. The hiring and training of this staff must begin in advance of the receipt of the continuing disability reviews. Funding for increased CDR workloads must not take staffing from other resources such as medical evidence purchases or away from the processing of initial and reconsideration claims. We feel that this funding should be separate and distinct from the Social Security and DDS operating appropriations so as not to detract from SSA's overall budget.

With respect to the mailer process, we do support it. But we support it as an innovative method for increasing the number of CDRs processed in a more efficient manner than the traditional all-case review. We do have some recommendations that we feel would improve the process and address concerns regarding self-reporting problems that may occur.

First, Social Security could perform a quality review of the self-reported no-improvement mailers. Such a review could identify claim profiles that may necessitate a full CDR. It would also validate the integrity of the mailer process and help identify falsification of self-reported data.

Second, to insure that full CDRs are conducted only in cases where medical improvement has occurred, we recommend that

ODIO obtain claim folders and screen cases using medical evidence in file. If ODIO determines that the individual has an impairment in which medical improvement is not expected, then they could make a confirming contact with the beneficiary's treating source. This would conserve both SSA field office and DDS resources by screening out all cases with no medical improvement.

We feel that all CDRs should be released on a flow basis throughout the fiscal year to allow the SSA field offices and the DDSs to process these cases more efficiently, instead of a one big time release. We also feel that all CDR workload reports should include the mailers that are screened out for which no DDS needs to be conducted. This will provide an accurate cessation rate and not skew the cessation rate to make it look like that we're ceasing more people in fact than we are.

So in summary, the National Council of Disability Determination Directors supports H.R. 3935.

[The prepared statement follows:]

TESTIMONY OF

CHARLES A. JONES, PRESIDENT, NCDDD

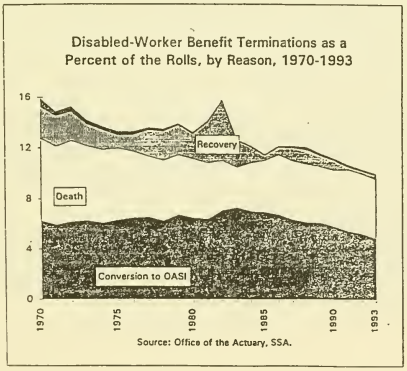
Mr. Chairman, Members of the Committee, I appreciate the opportunity to appear before you on behalf of the National Council of Disability Determination Directors (NCDDD), which is a voluntary managerial association, composed of the directors and top administrative staff of the Disability Determination Service agencies located throughout the United States.

The NCDDD takes very seriously the legal mandate outlined in Section 221(i) of the Social Security Act which directs a review of the disability rolls to ensure that those people receiving disability benefits continue to be disabled. Based upon this requirement, approximately 400,000 continuing disability reviews would need to be conducted each year. Due to the tremendous increase in initial applications for both Disability Insurance (DI) and Supplemental Security Income (SSI) we have been able to process only a small fraction of the number of CDRs that should be reviewed. Additionally, the downsizing that occurred within SSA and the state DDSs during the 1980s resulted in inadequate resources to conduct continuing disability reviews as well as to process new disability claims. As a result, first priority has been given to processing initial claims. While the NCDDD has supported this priority, we also believe that failure to conduct the continuing disability reviews has had negative consequences as follows:

Monetary Loss of Trust Fund: The General Accounting Office has reported that failure to conduct mandated CDRs from 1990 to 1993 will result in a loss of $1.4 billion to the DI trust fund by 1997.

Loss of Integrity: Failure to conduct these reviews as required by law has undermined the public confidence in the integrity of this program.

Return to Work Thwarted: Despite advances in medicine and in the field of rehabilitation, less than .05 percent of the beneficiaries left the rolls from 1991-93 due to recovery. Most left the rolls because they reached age 65 and were converted to OASI. Almost as many left the rolls due to death as retired. The chart below, reprinted from the Preliminary Status Report of the Disability Panel, convened by the National Academy of Social Insurance, demonstrates the dramatic differences in terminations for recovery, versus death and retirement.



Persons may be terminated for recovery if they (1) are determined to have medically recovered as a result of a CDR, 2) return to work because they have medically recovered, or 3) if they return to work despite their lack of medical improvement. Although no data exists to quantify it, we believe that a small percentage of those ceased for recovery do return to work and might not have done so without the incentive of a termination.

This issue has become more significant with the composition of the disability rolls becoming increasingly younger. General Accounting Office testimony before this subcommittee on April 22, 1993 indicated that "...the beneficiary population is becoming younger, they are staying on the rolls longer. Very few beneficiaries leave the rolls to return to work." The following chart, reprinted from the Preliminary Status Report of the Disability Panel convened by the National Academy of Social Insurance 2/23/94, provides data on this issue.

Table III-5: Disability Beneficiaries by Age: DI Disabled Workers and SSI Blind and Disabled Recipients Under Age 65, December 1992

Age	DI - Disabled Workers			SSI, Under Age 65
	Total	Receiving DI Only	Receiving DI and SSI	
Total number (000s)	3,454.7	2,888.4	566.3	3,415.2
Total percent	100.0	100.0	100.0	100.0
under 18	—	—	—	15.9
18-29	4.6	3.0	12.8	18.0
30-39	15.5	13.3	26.6	19.1
40-49	23.1	23.3	22.0	17.1
50-59	32.0	33.7	23.3	18.6
60-64	24.8	26.7	15.3	11.2
Under 18	0.0	0.0	0.0	15.9
18-49	43.2	39.6	61.4	54.2
50-64	56.8	60.4	38.6	29.8

Source: Office of Research and Statistics, Social Security Administration.

The NCDDD does not suggest that terminations automatically result in return to work. However, given the high percentages of younger beneficiaries, we must ensure that only those truly disabled remain on the rolls.

Monetary Loss to the General Fund: The most explosive growth in this program has been in Supplemental Security Income. Even though the focus of this hearing is on the DI trust fund, it would be irresponsible not to consider the similar problems that are occurring in the SSI program. SSI beneficiaries tend to be even younger than disabled workers and 566,300 of them qualify under both Title II and Title XVI. Disabled SSI beneficiaries have increased by almost 20% since December, 1991 and account for over $17 billion dollars annually in benefits paid.

In particular, we are concerned about the children who are beneficiaries and who have the potential to remain on the disability rolls for most, if not their entire life. We support disability benefits for children but we do not want to provide any disincentives to learn or to work for this population which is already at risk due to their socioeconomic status.

Accordingly, there are several monetary and social policy reasons for conducting continuing disability reviews in a responsible manner. I say, in a responsible manner, because we are not advocating a return to the "accelerated" CDRs that began in March of 1981 and ended with state moratoriums and thousands being terminated inappropriately. A responsible CDR process must contain the following characteristics:

1. Identification of beneficiaries that have medically recovered and are no longer disabled, according to the medical improvement standard in the 1984 Amendment to the Social Security Act.

2. Sufficient resources for SSA and the DDSs to conduct the reviews, in addition to adequate resources to process initial workloads. These resources must be adequate to provide fair, accurate, and prompt decisions.

3. Provision for research and recordkeeping that will identify data that can be used to more efficiently focus CDRs and facilitate return to work.

With these criteria in mind, the NCDDD offers the following comments regarding HR 3935 and the CDR mailer process.

HR 3935: The NCDDD supports the provision of the bill that requires that a portion of the benefit savings from CDRs be credited to a CDR account in the DI trust fund for administrative expenses to cover CDR reviews. Funding in this account should:

1. Be sufficient to cover all administrative costs related to the processing of CDRs for both SSA and the DDSs.

2. Funding should be sufficient to allow the DDSs to hire and train staff to provide adequate service to disability beneficiaries including clear and accurate answers to their questions. Temporary staff and additional overtime will not result in timely and quality CDRs. The hiring and training of this staff must begin in advance of the receipt of the CDRs.

3. Funding for increased CDR workloads must not take staffing or other resources (e.g., medical evidence purchases) away from initial and reconsideration case processing. It is critical that we not detract from initial and reconsideration workloads by robbing Peter to pay Paul.

4. This funding should be separate and distinct from the SSA and DDS operating appropriations so as not to detract from the overall SSA budget.

Mailer Process: NCDDD supports the mailer process as an innovative method for increasing the number of CDRs processed more efficiently than the traditional "all" case review. We do have some recommendations that will improve the process and address any concerns regarding self reporting problems that may occur:

1. SSA could perform a quality review of the self reported no improvement mailers. Such a review could identify claim profiles that may necessitate a full CDR. It would also validate the integrity of the mailer process and help identify falsification of self reported data.

2. To ensure that full CDRs are conducted only in cases where medical improvement has occurred, we recommend that ODIO obtain the claims folders and screen cases using medical evidence in file. If ODIO determines that the individual has an impairment in which medical improvement is not

expected, they could make a confirming contact with the beneficiaries treating source. This would conserve both SSA field office and DDS resources by screening out all cases with no medical improvement.

3. All CDRs should be released on a flow basis throughout a fiscal year to allow the SSA field offices and the DDSs to process these cases more efficiently.

4. All CDR workload reports should include the mailers that are screened out for which no DDS review needs to be conducted. This will provide an accurate cessation rate.

In addition to these recommendations, we suggest that sufficient funding be provided to obtain more complete trend data about CDRs, such as 1) the circumstances under which beneficiaries leave the rolls, 2) the consequences of benefit changes or service interventions that would facilitate return to work, and 3) data that would allow for accurate focusing of CDR workloads toward those beneficiaries most likely to have medically improved.

Chairman JACOBS. Thank you, Mr. Jones.
Mr. Kofahl.

STATEMENT OF STEVE KOFAHL, REGIONAL VICE PRESIDENT, REGION 10, NATIONAL COUNCIL OF SOCIAL SECURITY ADMINISTRATION FIELD OPERATIONS LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (LOCAL 3937)

Mr. KOFAHL. Thank you, Mr. Chairman and Mr. Bunning. We too support H.R. 3935, the American Federation of Government Employees. Our employees are very concerned about the integrity of Social Security programs, the CDR process, and many other processes that we feel have been almost totally ignored because of a lack of resources. We hope that the kind of innovative funding mechanism that we're talking about here can be applied to other programs that we are responsible for administering but are doing an abysmal job of taking care of because of lack of staff.

A lot of the people that have spoken already have made the case for the importance of the CDR process, so I won't belabor that too much. I do want to make the point, however, that last year's testimony by GAO about the losses to the trust funds, the $1.4 billion loss, did not tell the whole story. By their own report the GAO indicated that it covered only 1990 through 1993, the CDRs that were not done for those years. There were years prior to that and now 1 year since that that we're in currently for which CDRs have not been done, and the cost for that failure to do CDRs has not been included in that total. So we're talking about more than $1.4 billion.

We've already heard that CDRs are not routinely done at all for SSI benefits, even though Mr. Pickle pointed out that there are nearly as many SSI beneficiaries as there are Social Security disability beneficiaries. In that case we're talking about general fund revenues that support the SSI program. We certainly are in a deficit there. We may have room in the trust funds to pay extra benefits that are due, although I don't feel we should be. But we certainly don't have room on the general fund side to pay SSI benefits to nonentitled individuals.

I feel that there are serious problems with the mailer concept of screening. As was pointed out by one of the other panelists, we already have a diary system that identifies on the system which cases are most likely to improve in condition. Why not use that already inplace means of identifying high priority cases for review, and rather than spend money on the mailers themselves, use that money that would have been spent on mailers to conduct even more of these case reviews for situations where improvement is expected. I think we'd get a much better return that way. It would be much more efficient.

We also heard Mr. Thompson talk about disability reengineering. I feel that it's important as well for the committee to know that the CDR question was specifically excluded from reengineering. The reengineering effort in SSA looks at the initial claim process only. CDRs are not being addressed through the disability reengineering plan. In fact, reengineering will probably accelerate the rate at which claims are approved, create more claims, and create more

need for CDRs. So in a sense, it will exacerbate the problem we already have.

Some of the other programs that I feel would be very useful for us to attack with this same sort of moneysaving approach that you're suggesting in your bill would be overpayment collection. We have many cases where we've identified overpayments. We've used the administrative expenses necessary to work the cases up to the point where collection should take place, but we simply don't have the people to pursue collection.

We've also increased the administrative waiver threshold limit from $100 to $500, which means that a great number of people are not going to be even required to show that they should not pay back overpayments because of administrative reasons. We've decided that they're not worth collecting if they're less than $500. If we invested the personnel in actually going after those I think it would pay for itself to do that.

Also, the redeterminations in the SSI program have been extended out in many cases to a 6-year period, and for 4 of those 6 years we don't even look at the factors of eligibility that are ordinarily reviewed. I think we could invest here as well and get a good return, and the agency has suggested perhaps a $7 for $1 return on that investment. Yet, redeterminations are being done less and less often.

Like the CDRs, they're also being done by a mail system, and we question whether or not that is working very well. I certainly haven't seen anything that indicates it is or isn't. But I would suggest the committee look at both the redetermination process and the CDR process, not necessarily accepting what the agency tells us about whether or not it's working, but taking a hard look at the process itself and looking at some of those cases and insisting that the data be provided that justifies their findings.

That's all I wanted to point out in my oral statement. And of course, my written statement has been provided already. Thank you.

[The prepared statement follows:]

STATEMENT OF STEVE KOFAHL
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. Chairman, Members of the Committee, thank you for the opportunity to testify today on behalf of the American Federation of Government Employees, AFL-CIO.

Introduction

It has always been the Social Security Administration's goal to pay the right amount in benefits, to the right individuals, on time.

The National Performance Review has directed us to create a government that works better and costs less.

Commissioner Shirley Chater has identified, as one of the Agency's key priorities, restoring public confidence in SSA and its programs.

The above objectives can all be advanced by investing in the staff needed to eliminate the backlog of continuing disability reviews, and to conduct future reviews in a timely manner.

Why are CDRs Important?

The law requires that we review eligibility of Social Security (Title II) and Supplemental Security Income (Title XVI) disability beneficiaries to ensure that benefits are not paid to individuals who are no longer disabled. By not conducting these reviews, we are failing to fulfill our responsibilities to taxpayers and future beneficiaries.

We are not really helping children and adults by paying benefits to those who should not receive them. Beneficiaries become increasingly dependent over time, and less likely to join or re-enter the workforce. Children, in particular, should not be stigmatized by carrying the label "disabled" if it does not apply. They need to be prepared for the challenges presented by the rapidly-changing job market, and given the education and confidence needed for a lifetime of productivity and satisfaction. Similarly, adults become less able to compete the longer they remain out of work. Tens of thousands of individuals need to become contributors to the economy, pay taxes rather than be supported by them, and raise their own living standards and levels of self-respect.

What is the Cost of Not Doing CDRs?

In testimony given a year ago, the General Accounting Office found that about 1.1 million CDRs had not been undertaken since 1987 because staff resources had been shifted from conducting CDRs to the processing of initial disability claims. SSA's Office of the Actuary determined that Trust Funds would lose $1.4 billion by the end of 1997 because of the failure to perform reviews for fiscal years 1990 through 1993. An estimated 30,000 ineligible persons were on the disability rolls during that time. It is important to note that these figures do not include losses to the Trust Funds from reviews not done for years prior to 1990, or for the current fiscal year. It also does not include losses to the General Fund of the U.S. Treasury caused by our failure to conduct CDRs for SSI recipients thereby continuing payments to many who were, in fact, ineligible after 1987.

Why are CDRs Not Being Done?

As GAO noted, SSA decided to direct its attention to processing initial claims. Staff cuts in the 1980s took a disproportionate toll on front-line workers who conduct CDRs and take claims. With the current processes in place, management hopes to make up for 7,000 of the positions through systems modernization. The Agency estimates that 25,000 additional employees would be needed by the end of this decade to restore service levels in all of our areas of responsibility. However, we are skeptical that this would occur. Estimates of productivity gains through automation have been grossly exaggerated in the past.

In fact, employees in the field who have tested one component now being developed, the Modernized Disability System, report that in its current form the new system will add one hour or more to the time needed to process an initial disability application!

After the CDR issue was raised before the Congress last year, SSA did send self-reporting mailers to some beneficiaries, screened some folders, and conducted some reviews. However, an insignificant number of reviews were accomplished, and this flurry of activity lasted just a few months before ceasing once again.

What About Disability Re-engineering?

Continuing disability reviews are specifically excluded from the scope of the current efforts to re-engineer the disability process. In fact, several initiatives will increase the number of CDRs that will be needed in the next few years. In order to reduce delays and cut administrative costs, the Agency hopes to approve more claims early in the process. This is intended to provide relief to hearings offices. SSA also intends to make much greater use of third parties in taking disability benefit applications. With more claims allowed without hearings, and more claims-takers, dramatic increases in the backlog of unreviewed disability cases can be expected.

Are Initial Award Determinations Accurate?

If we are making questionable initial decisions to pay claimants, it is even more important that their cases be reviewed. The Agency tells us that the accuracy of initial medical decisions is down. Interpreter fraud may have placed thousands of ineligible individuals on the disability rolls. We hear that infants entitled solely on the basis of low birth-weight are developing into healthy young children. Questions are being raised about the severity of developmental and behavioral disorders used as the basis for paying benefits for children. Selective documentation and coaching by claimant representatives is suspected of affecting outcomes in disability hearings, and contributing to the 75% reversal rate. Third-party involvement at any level of the claim process may threaten program integrity, since they may have a strong financial interest in having claims approved. This may tip the scales too much toward paying claims which if scrutinized more closely in the first place or reviewed on a timely basis, would be disallowed.

Can We Reduce Waste in Other Programs Administered by SSA?

AFGE applauds the concept in H.R. 3935 of funding continuing efforts through savings generated by routinely and timely doing CDRs for all cases. We encourage the Committee to consider other cost-saving investments consistent with National Performance Review principles. Increased staff devoted to overpayment collection would more than pay for itself through savings to the Trust Funds and the General Fund. It would allow us to return the administrative waiver threshold amount to $100. It was recently raised to $500 as an administrative expedient because we have too few people to pursue collection.

As was done in the past, SSI redeterminations should be conducted annually and in person. Some are now scheduled for review only once every six years. Because of the two-year limit on administrative finality, reviewers cannot even look at four of the years in the six-year period. We were told by the Agency at one point that SSI redeterminations save the General Fund $7 for every $1 invested in doing them. This represents an even better return than the $4 saved for each $1 in administrative costs for CDRs. Furthermore, these savings would be to the General Fund which, unlike the Trust Funds, is operating at a deficit.

How Should Reviews Be Conducted?

In the interests of beneficiaries and taxpayers, CDRs should be conducted by personal interview whenever possible. Self-mailers have been used in the SSI redetermination process in so-called low error profile cases for years. AFGE does not know if SSA has determined the variance in accuracy when self-reporting versus personal interviews for SSI redeterminations are used. We strongly suspect that recipients have learned that it is best to report that nothing has changed. This avoids subsequent contacts, requests for documentation, and possible reductions in monthly checks. In the case of CDRs, beneficiaries reporting improvement would risk loss of benefits. Since we do not retroactively cease benefits for medical reasons, there is neither a penalty nor an incentive to report improvement or recovery.

Personal interviews could positively impact beneficiaries. Much of the fear could be taken out of the process if the recipient was assured by an SSA representative that due process is followed, and appeal rights are available. Claims Representatives could also make referrals to vocational rehabilitation and other services to encourage movement back into the workforce. Increasing the number of field offices where SSA provides vocational services directly through case management would also assist greatly with the transition.

Summary

Front-line employees and their AFGE representatives believe in good government. Our workers are taxpayers who are demoralized when they see waste, fraud, and abuse in SSA programs. We believe that we are here not only to serve claimants and beneficiaries with compassion and courtesy, but also to serve the taxpayers and those who will look to us for service in the future. It is time to stop being penny-wise and pound-foolish. The American public does not want the budget deficit increased and Trust Funds drained because SSA does not invest to save money. We strongly support H.R. 3937 as a way to protect the integrity of the program and to take necessary cost effective actions.

Thank you for the opportunity today to testify concerning this important issue. AFGE would be happy to work with Congress to restore integrity and public confidence in the Social Security Administration's programs. I would be happy to try and answer any questions you might have.

Chairman JACOBS. It has been included, Mr. Kofahl.
Ms. Zelenske.

STATEMENT OF ETHEL ZELENSKE, STAFF ATTORNEY, NATIONAL SENIOR CITIZENS LAW CENTER

Ms. ZELENSKE. Thank you for inviting me to testify this morning. I started representing clients in Social Security cases in the early 1980s when the government's campaign to illegally terminate benefits began. At the time, I represented numerous clients whose benefits had been cut off even though their conditions had not improved. I personally saw the hardship and suffering that governmental abuse can cause. That experience has formed the foundation of my advocacy in this area.

We all agree that SSA has to improve its performance of CDRs. Any disability program needs a review process, and I am concerned about the integrity of the program being affected when reviews are not performed. However, in order to prevent history from repeating itself, new CDR initiatives must be carefully scrutinized to insure that they are reasonable and protect individuals from arbitrary and capricious agency practices.

So long as these criteria are met, I fully support any efforts by this subcommittee to help SSA get back on track with CDRs. I feel that H.R. 3935 is a creative effort to help SSA get back on track in light of their inability to perform the mandated number of CDRs. Our main concern with the bill is that it contain adequate protections so that incentives to improperly terminate benefits are not created. One immediate concern that jumps to mind is whether individual reviewing workers' jobs would be dependent on funds in the account. Obviously, that could affect the number of cases that they terminated.

It is important to keep in mind that, to date, very few CDRs result in actual termination; a 5 to 6 percent rate is the one that is normally used. Under the current standard, benefits are continued when no medical improvement exists. But in addition, even where medical improvement exists, benefits will be continued if the person is found to be currently disabled.

Regarding the CDR mailer, our concern about the mailer focuses on clients who remain disabled but who on paper minimize their impairments and inaccurately portray their functional abilities. Persons with mental illness are particularly vulnerable in this regard because they often deny their illness and unrealistically indicate that they are able to work. These statements would be clearly contradicted by medical evidence. Overreliance on mailer responses could lead to these cases being unnecessarily developed as full CDRs.

I feel that this area warrants careful scrutiny because persons with mental illness were one of the so-called profile populations in the early 1980s targeted for improper termination. In addition, thousands more were illegally denied benefits during the same period. Eventually both Congress and the Supreme Court acted to rectify these agency practices.

Another potentially serious problem deals with nonresponses and undeliverable CDR mailers. Under SSA's procedure, failure to respond to the mailer could lead to termination based on failure to

cooperate or whereabouts unknown procedures. Termination on this basis is a very real and potentially harmful possibility. I represented many clients in the 1980s who were mentally ill and were terminated for failure to respond to various notices even though their conditions were still very serious.

One case in particular stands out involving a young man with very severe chronic schizophrenia who was in the so-called profile CDR population group. He was terminated in 1982 after failing to respond to notices, and there began an 8-year odyssey to restore his benefits which eventually occurred in 1990 when our legal services office represented him.

In my written statement I stated that I question the effectiveness of the CDR mailer because of potential abuses in various directions. I still feel that there's no replacement for having some sort of face-to-face contact with a well-trained worker who is a disability specialist, who in conjunction with medical evidence can determine whether there has been medical improvement and whether the person continues to be disabled.

In conclusion I just want to say that I urge Congress and the agency to act cautiously in creating new initiatives regarding CDRs in order to prevent the abuses from the 1980s from recurring. Thank you.

[The prepared statement follows:]

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**STATEMENT OF ETHEL ZELENSKE, STAFF ATTORNEY,
NATIONAL SENIOR CITIZENS LAW CENTER,
BEFORE THE SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ON H.R. 3935 TO CREATE FUNDING FOR CDRS
AND THE CDR MAILER PROJECT**

MARCH 10, 1994

Thank you for inviting me to testify before the Subcommittee today. The National Senior Citizens Law Center (NSCLC) provides national advocacy on behalf of poor persons with specific emphasis on representing the interest of the lowest income elderly people, particularly women and racial and ethnic minorities. NSCLC also provides support to legal services, pro bono, and seniors' advocates who represent elderly poor people. One of NSCLC's priority areas is increasing income security for low-income elderly and disabled persons.

BACKGROUND

In the early 1980's, SSA engaged in systemwide violations of law which resulted in the termination of disability benefits for hundreds of thousands of persons whose impairments had not improved. Numerous lawsuits were filed against SSA, challenging these policies, and Congress eventually passed landmark legislation in 1984 rectifying these illegal practices.[1]

Once CDRs were reinstated in 1986, following a moratorium while the new medical improvement standard was implemented, SSA initially met its legal mandate to perform CDRs. However, since 1987, SSA has decreased the number of continuing disability reviews (CDRs) it has performed due to budget constraints. Two critical factors have contributed to the decrease: (1) a loss of 17,000 workers at SSA or 21% of the workforce and (2) a dramatic increase in the number of initial applications. As a result, resources have been reallocated and, according to the GAO and SSA's own estimates, only 50% of required CDRs have been performed since 1987, with the most substantial decrease occurring since 1991. Recently, SSA has come under increasing pressure to improve its performance.

For advocates, like myself, who experienced the aggressively hostile campaign to terminate low-income disabled persons in the 1980's, one of our major objectives is to prevent those governmental abuses from recurring. While supporting the CDR process as a necessary feature of any disability program and acknowledging that the integrity of the program is affected by the failure to perform CDRs, new initiatives must be carefully scrutinized to ensure that they are reasonable and protect claimants from arbitrary and capricious Agency policies and practices.

[1] Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98-460, 98 Stat. 1794 (1984).

H.R. 3935

H.R. 3935 represents a creative effort to provide funds to perform CDRs. Our main concern with the bill is that it contain adequate protections to prevent improper incentives to terminate benefits. This is partially achieved by creating a CDR account which could be used for the sole purpose of funding additional reviews. However, H.R. 3935 provides that only up to 50% of the savings from terminations would be credited to the account. This could lead to agency abuse by providing incentive to terminate persons who are being reviewed, especially if the reviewing workers' jobs are funded by or otherwise dependent on this account.

The possibility that improper incentives could drive the fund is influenced by the fact that very few CDRs eventually result in termination. Despite the concern about ineligible persons remaining on the rolls, it is important to remember that continuation rates have remained relatively low since CDRs were resumed in FY 1986, with a 5-6% termination rate being commonly used.[2] Even where cases result in termination initially, many are continued when proper evidence and analysis are provided upon appeal.[3]

In addition, medical improvement on its own does not lead directly to termination of benefits. In conducting a CDR, the regulations require that SSA determine the individual's "current ability to engage in substantial gainful activity ...."[4] Thus, where medical improvement has occurred, benefits are continued if the individual is currently disabled under the regular analysis for determining disability.

THE CDR MAILER

In the spring of 1993, SSA began the mailer program. The mailer and a cover letter are sent to a beneficiary when the date of review matures. The form is then returned to a central "program center" where it is reviewed by a technician who decides whether a full medical CDR is needed. Cases requiring a complete CDR are then to be sent to the local SSA field office to initiate a CDR interview.[5] However, it appears that in at least one state, all mailer response cases are being forwarded for full CDRs which obviously strains the currently beleaguered staff in SSA field offices and in DDS offices.

Because the questions on the mailer are very general, they lend themselves to potential abuses in various ways. While the press release mentions persons who may attempt to "game the system," it is important to note that the mailer may adversely affect individuals who remain disabled but who, on paper, may minimize their impairments and inaccurately indicate that their condition has improved allowing them to work. This could result in unnecessary and costly full CDRs in cases although the individual clearly continues to be disabled.

Specifically, individuals with mental illness often deny their impairment and effectively -- but unrealistically -- indicate that they have few functional limitations, which is completely contradicted by medical evidence provided by treating sources. However, based on mailer responses only, these cases would be unnecessarily developed as full CDRs.

[2] In calculating "lost savings," the GAO has used a 5-6% termination figure for beneficiaries in the Title II disability program. See Social Security: SSA's Processing of Continuing Disability Reviews, GAO/T-HRD-93-9 (March 9, 1993).

[3] However, a troubling trend is the alarming drop in the rate of appeal from termination decisions between FY 1991 and 1992. In 1992, only 41% of termination decisions were appealed. FY 1990 and 1991 figures showed a vast improvement over FY 1989 when only 59% of terminated persons appealed. This figure increased to 70% in 1990 and 73% in 1991. The precipitous 32% drop in the appeal rate between 1991 and 1992 is particularly disturbing in light of the high success rate on appeal. See "Overview of Entitlement Programs" ("Green Book"): 1993: Table 6, p.62; 1992: Table 6, p.61.

[4] See 20 C.F.R. §§ 404.1594(f)(7) and 416.994(b)(5)(vii).

[5] Mailer procedures are set forth in POMS DI 40501.000 - 40535.000.

This group is of particular concern because persons with mental impairments were one of the "profile" populations targeted for termination in the early 1980's. And, in addition to being improperly terminated, thousands of persons with mental illness were illegally denied benefits during that period. Eventually, both Congress and the United States Supreme Court acted to rectify SSA's illegal practices and policies regarding this population.[6]

Another potential problem area deals with SSA's policy for dealing with non-responses and undeliverable CDR mailers.[7] According to the POMS, if a person has not responded to the CDR mailer, two telephone contacts will be attempted. If there is no response to the calls, the individual's most current address will be verified and a "come-in/call-in" letter will be sent. Failure of the individual to respond to this contact within 15 days triggers the immediate initiation of the "failure to cooperate" or "whereabouts unknown" procedure.[8] Either of these procedures, as was the case in the 1980's, could lead to termination.[9]

Because the mailers could lead to potential abuses both by individuals and the Agency, we question their effectiveness in accurately targeting cases for CDRs. In our opinion, reliance on paper is no replacement for an in-person interview with well-trained workers in SSA field offices. This concept has been acknowledged by the SSI Modernization Project which recommended the use of specially-trained disability specialists in SSA field offices who would conduct "informed, sensitive initial disability claims interviews in order to provide the State agencies with claims information that is both complete and accurate."[10] SSA's current disability reengineering project should consider this approach in the CDR context in addition to the initial application process.

CONCLUSION

While acknowledging the need for SSA to improve its performance of CDRs, we urge Congress and the Agency to act carefully in creating new initiatives in this area. To prevent the government abuses of the 1980's from recurring, any effort should contain adequate protections to protect disabled persons from improper termination.

[6] See Bowen v. City of New York, 476 U.S. 467 (1986); Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98-460, 98 Stat. 1794 (1984).

[7] The procedure is set forth in POMS DI 13004.005 - DI 13004.030.

[8] POMS DI 13004.015D.

[9] See 20 C.F.R. §§ 404.1594(e)(2) and 416.994(b)(4)(ii) which state that if SSA has a question regarding the individual's continuing disability and the person fails to give SSA requested medical or other evidence by a certain date without good cause, SSA will find the disability has ended. 20 C.F.R. §§ 404.1594(e)(3) and 416.994(b)(4)(iii) state that if SSA is unable to find the individual to question about continuing disability, SSA will determine that disability has ended and suspend payments.

[10] Final Report of the Experts, SSI Modernization Project (August 1992), p. 89.

Chairman JACOBS. Thank you. Ms. Zelenske, you raise a question that I guess can be best described as conflict of interest. You say that there might be incentive to drop people from the rolls because the system would have more money to conduct more CDRs. Don't you think that that incentive is pretty minor when it doesn't put money directly in the pocket of the reviewer?

Ms. ZELENSKE. I agree. Just what I raised was—I haven't seen the bill and my concern was that if there was some direct tie-in between the fund and a person's job. Obviously, somebody is going to try real hard to save their job.

Chairman JACOBS. In the old days in my State, if the JP found you guilty, he got a cut from the fine, and so with the constable and so on. They thought about that for a century or two and changed it here recently.

Thank you all. I thank the panel for your contributions to the record.

[Whereupon, at 12:03 p.m., the hearing was concluded.]

[A submission for the record follows:]

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**STATEMENT OF LINDA LANDRY, STAFF ATTORNEY,
DISABILITY BENEFITS PROJECT,
TO THE SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ON H.R. 3935 TO CREATE FUNDING FOR CDRS
AND THE CDR MAILER PROJECT**

MARCH 23, 1994

Thank you for the opportunity to make this statement, commenting on H.R. 3935 for the hearing record. The Disability Benefits Project provides backup and support for Massachusetts advocates who represent disabled individuals before the Social Security Administration (SSA). Advocates call upon the Disability Benefits Project for advice, research, and co-counselling on cases. The Project is staffed by three attorneys, all of whom have had extensive prior experience with Social Security and SSI benefits cases in legal services programs in Massachusetts. Two of us have been practicing long enough to have represented scores of disabled persons who unjustly lost their disability benefits in the mass terminations of the early 1980's.

We understand that SSA needs to perform continuing disability reviews (CDRs) to maintain program integrity. However, based on our experience with the prior CDR abuses, we urge both Congress and SSA to take great care to protect disabled persons from improper terminations when creating systems and initiatives to accomplish the required reviews. In the early 1980's, SSA was also under great pressure to reduce the disability benefits rolls through continuing disability reviews, then called continuing disability investigations (CDIs). The initiative at that time called for "accelerated" CDIs. Whether or not intentional, the atmosphere that was created favored terminations. It was our experience that the reviews were rushed through with very little medical evidence development. The analysis of the cases was routinely incorrect. The result was that thousands of obviously disabled persons lost their benefits. As a result of the arbitrariness of these decisions, many individual and class action lawsuits were filed against SSA. Chaos reigned until Congress stepped in to resolve the problem in with the sweeping changes contained in the Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98-460, 98 Stat. 1794 (1984).

Disability benefits advocates remember well the hardships imposed upon the disabled persons whose disability benefits were unjustly terminated. Many suddenly lost the ability to pay for food, clothing, shelter and medical care. It was our experience that persons with mental impairments were particularly at risk for losing benefits, and as a result, whatever degree of stability they had managed to achieve. This was especially true for those who lacked understanding of their impairment and the capability to accurately describe its effect on their ability to function, often the most severely impaired. It was our observation that many decompensated and some became suicidal. See Avery v. Heckler, 584

F.Supp. 312, 319 (D.Mass. 1984); City of New York v. Heckler, 578 F.Supp. 1109, 1112, 1125 (D.N.Y.1984).

While we acknowledge SSA's need to perform CDRs and recognize that the H.R. 3935 provisions are an attempt to facilitate that need, we would like to point out some areas of concern that could lead to improper terminations. Our main concern is the apparent presumption that the CDR mailer system is worthy of continuation as the most efficient way of achieving the required level of CDRs. The mailer system relies on individual recipients to provide written answers to a series of seven very general questions. These answers are then reviewed by a central "program center," to decide which cases require a full medical CDR. We think it is a mistake for SSA to move away from in-person service in the complicated disability benefits programs. Accurate decisions in these programs typically require review of a lot of detailed information by well-trained personnel.

The problems that may arise with reliance on a "self reporting" mechanism like the CDR mailer are several. The press release for the hearing on H.R. 3935 mentions the potential problem of recipients learning to "game the system" by providing answers that avoid a full medical review. However, there is also the problem of recipients who will minimize their impairments or functional limits or inaccurately report that they have improved, resulting in unnecessary medical reviews or even improper terminations. This is a very real problem, especially for some recipients with mental impairments. One example from my experience involves a very impaired individual with schizophrenia who is very motivated to work and who constant reports that he will have a job in two weeks. Although clearly unable to perform work-related functions, his disability benefits were terminated as a result of an "accelerated CDI." An in-person interview by knowledgeable SSA staff would almost assuredly have resulted in a continuance of his disability benefits, preventing disruption of his life and the need for SSA to expend resources for a full medical review. A recent example of a similar problem was reported by a Massachusetts advocate who represented an individual with severe schizophrenia whose benefits were terminated following a CDR because he minimized his impairment. This individual's benefits were restored, but only after a hearing at which his therapist testified as to his true limitations. An in-person interview with well-trained SSA staff may well have prevented this expenditure of resources.

Another reason mitigating against reliance on the CDR mailer is the risk that some recipients will fail to respond in a timely manner for reasons related to their disability, risking termination of their benefits. Again, individuals with certain mental impairments are probably at particular risk for "failure to respond" terminations. Also at risk are disabled individuals who are functionally illiterate. Although the mailer procedures call for follow up attempts prior to terminating benefits for "failure to cooperate" or "whereabouts unknown" reasons, such attempts are of questionable value if conducted long distance by the central "program center."

Finally, the H.R. 3935 provision for funding the CDR mailer system could result in abuse by SSA. The provision would create a CDR account with 50% of the savings from resulting terminations. This could result in an improper agency incentive to terminate benefits and a return to the abuses of the past. We recognize that the intent of this funding provision is to assure funding for the required CDRs, but we caution against inadvertently creating an atmosphere for terminations by tying termination savings too closely to agency jobs.

In conclusion, for the reasons expressed above, it is our opinion that the not insignificant costs of continuing the mailer system would be better spent by assuring adequate personnel resources in SSA's field offices. The SSI Modernization Project recommended the use of well-trained disability specialists in SSA's field offices to conduct informed, sensitive initial disability

claims interviews. See Final Report of the Experts, SSI Modernization Project (August 1992), at p. 89. We think that the use of such specially trained personnel would also result in a more efficient, effective and fair CDR process. Further, one of SSA's main strengths has been its ability to provide in-person information and service to claimants in their communities through its system of field offices. However, that strength has declined in recent years due to a lack of resources. Diverting funds from in-person services to a paper system of questionable effectiveness will only continue that trend.